IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A. No.1339 of 2016
&
C.M.P. No. 10355 of 2016

Reliance General Insurance Company Ltd.,
Heavitree, Unit No.1, 3rd Floor,
No.23, Supur Tank Road, Chetpet,
Chennai - 600 031. ..Appellant/2nd Respondent

Vs.

1. R. Santha
2. R. Ramani
3. R. Parthasarathi
4. R. Parthiban
5. K. Palanisamy ..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal as against the award and decree dated 12.01.2016 passed in M.C.O.P. No. 918 of 2013 by the Motor Accidents Claims Tribunal (I Additional District Court), Cuddalore.

For Appellant :: Mr.S. Arunkumar

For Respondents:: Mrs.Ramya V. Rao
for R1 to R4

J U D G M E N T

(Judgment of the Court was delivered by N. KIRUBAKARAN,J.)

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs.13,43,000/- granted by the Motor Accidents Claims Tribunal (I Additional District Court), Cuddalore, in M.C.O.P. No. 918 of 2013 for the death of one D. Ramamoorthy, an agriculturalist and compost fertiliser dealer, allegedly earning about Rs.25,000/- per month, in the accident, which occurred on 28.11.2012, when the two-wheeler, in which he was travelling as a pillion rider, was hit by a lorry coming in the same direction.

2. The claim petition was contested by the appellant Insurance Company. However, the Tribunal, based on appreciation of evidence, found that the accident occurred because of the rash and negligent driving of the lorry driver and awared a sum of Rs.13,43,000/-. The said award is being challenged by the appellant only on the quantum of compensation.

3. Heard Mr.S. Arunkumar, learned counsel for the appellant and Mrs. Ramya V. Rao, learned counsel for respondents 1 to 4/claimants.

4. Though the claimants claimed that the deceased was earning a sum of Rs.25,000/- per month as an agriculturalist and as a dealer in fertilisers, the Tribunal took only Rs.12,000/- as the monthly income of the deceased, in the absence of any proof regarding the same. The monthly income of Rs.12,000/- determined by the Tribunal for an agriculturalist is on the higher side. Moreover, the land has been inherited by the claimants. Therefore, this Court re-determines the monthly income together with future prospects at Rs.10,000/-.

5. Though the claimants are children of the deceased, a perusal of the records would show that they are all major and therefore, one-third deduction has to be made towards "Personal Expenses". Accordingly, deducting one-third, "the Monthly Contribution of the deceased to his family" comes to,

Total Monthly Income :: Rs.10,000/-
Les: 1/3rd deduction towards
"Personal Expenses " :: Rs.10,000/- (-) 1/3 (Rs.10,000/-)
:: Rs.10,000/-(-) Rs.3,333/-
Monthly Contribution :: Rs.6,667/-
Annual Contribution :: Rs.6,667 x 12
:: Rs.80,004/-

The age of the deceased was 54 years and therefore, the appropriate multiplier to be adopted, as per the judgment of the Honourable Apex Court, in Smt. Sarla Verma's case (2009 6 SCC 121), is 11, which was rightly done by the Tribunal. Accordingly, applying the said multiplier, "Loss of Income" is calculated as hereunder:

Loss of Income :: Rs.80,004 x 11
:: Rs.8,80,044/-

6. As far as the amounts awarded under the other heads are concerned, Rs.50,000/- awarded towards "Loss of Consortium" is reduced to Rs.40,000/- following the judgment of the Constitution Bench of the Honourable Apex Court in National

Insurance Company Limited V. Pranay Sethi and Others reported in 2017 ACJ 2700. Likewise, Rs.25,000/- awarded towards "Funeral Expenses & Ambulance Expenses" is confirmed. The amount awarded towards "Loss of Love and Affection" is reduced to Rs.45,000/- This Court awards a sum of Rs.15,000/- towards "Loss of Estate" in the light of the aforesaid judgment as no amount was awarded under the said head. Thus, the total compensation payable to the claimants is,

Loss of Income	::	Rs. 8,80,044/-
Loss of Consortium	::	Rs. 40,000/-
Funeral Expenses & Ambulance Expenses	::	Rs. 25,000/-
Loss of Estate	::	Rs. 15,000/-
Loss of Love and Affection	::	Rs. 45,000/-
Total	::	Rs.10,05,044/-
rounded off to	::	Rs.10,00,000/-

The rate of interest awarded by the Tribunal @ 7.5% per annum remains intact.

7. Out of the total compensation amount, the 1st respondent is entitled to Rs.5.5 lakhs and respondents 2 to 4 are entitled to Rs.1.5 lakhs each.

8. The appellant Insurance Company is directed to deposit the entire award amount, with interest and costs, as per the modified award passed by this Court, after deducting the amount already deposited, if any, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order. On such deposit made, the 2nd respondent insurance Company is direced to transfer the respective shares of the claimants to their respective bank accounts, as per the apportionment made by this Court, within a period of one week thereon.

9. In the result, the Civil Miscellaneous Appeal is partly allowed reducing the compensation awarded by the Tribunal from Rs.13,43,000/- to Rs.10 lakhs with interest @ 7.5% per annum. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nv

To

The MACT (I Addl. District Court),
Cuddalore.

+1cc to Mr.S.Arunkumar, Advocate Sr.36350

C.M.A. No. 1339 of 2016

ppa[co]
srg 10/07/2018