IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.2154 of 2016
and C.M.P.No.15525 of 2016

Manager,
Royal Sundaram Alliance Insurance
Company Limited,
Pondicherry - 3.

.... Appellant/2nd Respondent

-vs-

1.Durga @ Premalatha
2.Suganya
3.Sabareesan ...Respondent 1 & 3/Claimants

4.Natarajan

.... Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988 against the judgment and decree dated 16.12.2015 passed in M.C.O.P.No.190 of 2013 on the file of the Motor Accidents Claims Tribunal, Sub Court, Chidambaram.

For Appellant : Mr.S.Manohar

For Respondents : Mr.T.Gobinath (For R1 to R3)

No appearance (For R4)

J U D G M E N T

[Judgment of the Court was delivered by R.SUBRAMANIAN,J.]

The Insurance Company is on an appeal, challenging the quantum of compensation awarded for the death of one Elavazhagan, who died in the road accident that occurred on 21.07.2013.

2.The fact that the said Elavazhagan was employed as Foreman in Annamalai University and was drawing a monthly salary of Rs.27,818/- is not in dispute. The Tribunal has added 30% towards future prospects and fixed his monthly income as

Rs.36,163/-. The same is also not questioned.

3.Mr.S.Manohar, learned counsel for the Insurance Company would only submit that the Tribunal should have deducted 10% towards Income Tax and should have applied multiplier as '11' instead of '13', since, the deceased had only 11 years of service left.

4.While we find some force in the contention of the learned counsel regarding the non-reduction of any amount towards Income Tax, we do not think that the multiplier fixed by the Hon'ble Supreme Court in Sarala Varma & Other Vs. Delhi Transport Corporation & another reported in 2009(2) TNMAC 1 could be tinkered with. We therefore, work out the compensation as follows:- The annual income arrived at by the Tribunal is Rs.4,33,956/-. After providing for standard deductions of Rs.2,00,000/-, the Income Tax payable at 10%, works out to Rs.23,395/-. If that is deducted, the balance income would be Rs.4,10,561/- per annum. Applying the multiplier of '13' and after deducting 1/3 towards personal expenses, the compensation payable under the head of loss of dependency, works out to Rs.35,58,196/-. The Tribunal has granted a sum of Rs.25,000/- each towards loss of love and affection to the claimants who are the daughters and son of the deceased. We do not find any ground to interfere with the said compensation. The Tribunal has not granted any amount towards loss of estate and funeral expenses. Hence, a sum of Rs.50,000/- each is granted on these two heads. The Tribunal has granted a sum of Rs.5,000/- towards transport charges and the same is sustained. Thus, worked out the total compensation payable is Rs.37,38,195/- with interest at the rate of 7.5 % and proportionate cost and the same is rounded off to Rs.37,40,000/-.

5.The appeal is allowed in part. The award of the Tribunal is modified to Rs.37,40,000/-. The compensation shall be shared equally by the claimants. It is stated that the Insurance Company has deposited the entire amount. The claimants are permitted to withdraw the compensation with proportionate interest. The balance amount shall be repaid to the Insurance Company. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Subordinate Judge,
Chidambaram.

+1cc to Mr.T.Gobinath, Advocate, S.R.No.60030

+1cc to Mr.S.Manohar, Advocate, S.R.No.60500

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GJII(CO)
GSP(12/11/2018)