IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.09.2018
CORAM:
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
C.M.A.No.2164 of 2018

1.P.Lakshmi Priya
2.Minor Iswarya
rep. by her next friend/guardian
P.Lakshmi Priya
... Appellants/Petitioners

Vs

1.M/s.Technomax Building Solution (P) Ltd.,
No.1/382, Maddamapalayam, Press Colony,
Coimbatore - 641 019.

2.The United India Insurance Co. Ltd.,
No.280, Ooty Main Road,
Mettupalayam,
Coimbatore.

3.M.Subbaiyan @ Subbaiya Gowder

4.Madhammal
... Respondents/Respondents 1 & 2/Petitioners 3 & 4

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award dated 23.04.2015 passed in M.C.O.P.No.350 of 2012 on the file of the Motor Accident Claims Tribunal (III Additional District Judge), Gobichettipalayam.

For Appellant : Mr.R.Bharath Kumar

For Respondents: Mr.T.Ravichandran for 2nd respondent

JUDGMENT

Being dissatisfied with the quantum of compensation of Rs.9,45,800/- awarded by the Tribunal for the death of the deceased Sundarraj in the accident, the appellants have preferred the Civil Miscellaneous Appeal seeking enhancement of compensation.

2. The appellants and the respondents 3 and 4 are the claimants and they have filed the claim petition claiming compensation of Rs.50,00,000/- for the death of deceased in the accident occurred on 18.07.2012.

3. I heard Mr.R.Bharath Kumar, learned counsel for the appellants and Mr.T.Ravichandran, learned counsel for the second respondent.

4. It is not necessary for this Court to narrate entire facts in detail qua negligence and liability. It is for the reasons that these things are recorded by the Tribunal that the second respondent is liable to pay the compensation to the appellants. Since the aforesaid finding of the Tribunal is based on evidence and also none of these findings are under challenge, this Court is of the considered view that the finding of the Tribunal that the second respondent to pay the compensation is confirmed.

5. The only point that arises for consideration in this appeal is whether the appellants are entitled to get enhanced compensation and if so, to what extent.

6. According to the appellants, the deceased was earning Rs.20,000/- per month by working as Pattern Designer in Lakshmi Pattern Works, Karamadai. In addition, he was getting agricultural income of Rs.50,000/- per year. To prove the monthly income of the deceased, the appellants examined P.W.3-Manager of Lakshmi Agencies, who had deposed that the deceased was working as Supervisor and he was paid salary of Rs.14,000/- per month. Ex.P8 is the salary certificate issued by Lakshmi Pattern Works, Karamadai.

7. Finding that Ex.P8-salary certificate is not supported by attendance register and necessary voucher, the Tribunal held that it cannot be said that the deceased was paid salary of Rs.14,000/- per month at the relevant point of time. Holding so, the Tribunal fixed the monthly income of the deceased notionally at Rs.4,500/-.

8. When the appellants have examined the representative of the employer and produced the salary certificate, the Tribunal cannot brushed aside the evidence of P.W.3 wholly. The specific case of the appellants is that the deceased was working as Pattern Designer in Lakshmi Agencies. No rebuttal evidence was adduced to disprove the avocation of the deceased by the second respondent. Considering the avocation of the deceased and also taking note of the agricultural income stated by the appellants, it would be appropriate to fix the monthly income of the deceased at Rs.9,000/-. Accordingly, this Court fixed the

monthly income of the deceased at Rs.9,000/-.

9. At the time of accident, the deceased was aged 39 years. Had he been alive, he would have earned more. Therefore, it would be appropriate to give 40% addition towards future prospects. Adding 40% i.e., Rs.3,600/-, the monthly income of the deceased is fixed at Rs.12,600/-.

10. The first appellant is the wife and the second appellant is the minor daughter. Similarly, the respondents 3 and 4 are parents of the deceased. As the parents of the deceased have not joined with the appellants, the appellants arrayed them as respondents 3 and 4 in this appeal. Since the dependent family members are four in numbers, it would appropriate to deduct one-fourth towards personal and living expenses. Deducting one-fourth, the monthly contribution to the family is calculated at Rs.9,450/-, i.e., Rs.1,13,400/- per annum.

11. As stated supra, at the time of accident, the deceased was aged 39 years. Adopting relevant multiplier 15, the loss of dependency is calculated at Rs.17,01,000/-. Accordingly, Rs.17,01,000/- is awarded towards loss of dependency.

12. The Tribunal awarded Rs.10,000/- towards consortium; Rs.10,000/- towards funeral expenses and Rs.10,000/- towards loss of estate.

13. With respect to conventional heads, Hon'ble Supreme Court in the case of National Insurance Company Ltd vs. Pranay Sethi, reported in 2017 (3) GLH 536 = AIR 2017 SC 5157, para No.61 (viii) has held that, reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/, Rs. 40,000/- and Rs. 15,000/- respectively. Following the decision of the Hon'ble Supreme Court, Rs.10,000/- each awarded by the Tribunal is under the heads loss of consortium; funeral expenses and loss of estate are enhanced to Rs.40,000/-; Rs.15,000/- and Rs.15,000/- respectively.

14. The Tribunal has not awarded any amount towards loss of love and affection to the respondents 3 and 4 are parents of the deceased. Considering the fact that the respondents 3 and 4 have lost their son at the age of 57 and 67 respectively at the time of accident, this Court is inclined to award Rs.20,000/- each towards loss of love and affection.

15. The Tribunal awarded Rs.5,000/- towards transport charges and the same is deleted.

16. In view of the above discussion, a sum of Rs.9,45,800/-

awarded by the Tribunal is enhanced to Rs.18,11,000/- as under:

Heads	Rs.
Loss of dependency	17,01,000.00
Loss of consortium to the 1st appellant	40,000.00
Funeral expenses	15,000.00
Loss of estate	15,000.00
Loss of love and affection to respondents 3 and 4	40,000.00
Total	18,11,000.00

17. Out of total compensation of Rs.18,11,000/-, the first appellant is entitled to Rs.8,11,000/-; the minor second appellant is entitled to Rs.6,00,000/-; the respondents 3 and 4 are entitled to Rs.2,00,000/- each.

18. In the result, the Civil Miscellaneous Appeal is partly allowed with proportionate costs. The compensation of Rs.9,45,800/- awarded by the Tribunal is enhanced to Rs.18,11,000/- payable with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit. The second respondent is directed to deposit the modified compensation with interest as aforesaid before the Tribunal within a period of four weeks from the date of receipt of a copy this judgment. On such deposit, the first appellant and respondents 3 and 4 are permitted to withdraw their respective shares along with accrued interest on filing proper application before the Tribunal. Insofar as minor share is concerned, the same is directed to be invested in anyone of the nationalised bank till she attains majority and the first appellant is permitted to withdraw the accrued interest once in three months directly from the Bank. The appellants are directed to pay the deficit Court fee within a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
III Additional District Judge,
Gobichettipalayam.

2.The Record Keeper,
VR Section,
High Court, Madras.

+1cc to Mr.R.Bharath Kumar, Advocate sr.no.65922
+1cc to Mr.T.Ravichandran, Advocate sr.no.65770

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nr 19/03/2019