THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 20.02.2018
Coram

The Hon'ble Mr.Justice R.Subbiah
and
The Hon'ble Mr. Justice P.D.Audikesavalu

C.M.A.No.1728 of 2014
&
M.P.No.1 of 2014

M/s. Royal Sundaram Alliance Insurance Co. Ltd.,
rep. by its Manager.
D. No.45 and 46, Whites Road,
Chennai - 600 014. ...Appellant/2nd Respondent

Vs.

1. Tmt. Anjala

2. Agila (Minor)

3. Archana (Minor)

4. Dinesh Kumar (Minor)

(R-2 to R-4, minors are rep. by
their mother and natural guardian/R1)

5. R. Uma Priya
...Respondents/Petitioners 1 to 4,
/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the judgment and decree dated 20.12.2012, made in MCOP No. 421 of 2010, on the file of the Motor Accident Claims Tribunal (Additional District Judge) Krishnagiri.

For Appellant : Ms.C.Harini
For Respondents 1 to 4 : No appearance

J U D G M E N T
(Order of the Court was delivered by R.Subbiah,J.)

This Civil Miscellaneous Appeal has been preferred by the Insurance Company, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, (Additional District Judge), Krishnagiri, in MCOP No. 421 of 2010, dated 20.12.2012.

2. Since the present Appeal has been filed, questioning the quantum of compensation, we are not traversing into the other aspects of the award.

3. Though this Appeal has been filed in the year, 2014, and notice was ordered when the Appeal was admitted on 16.07.2014, the same was not served on the contesting respondents, and hence, we are of the view that, instead of again ordering notice to the respondents, it would be appropriate to see whether there is merit in this Appeal or not.

4. With regard to the merit of the Appeal, the learned counsel appearing for the appellant submitted that the present Appeal only questions the quantum of compensation awarded by the Claims Tribunal. The main ground raised in the Appeal is that, Rs.10,200/- fixed as monthly income of the deceased by the Tribunal is extremely on the higher side, which ultimately, resulted in awarding an exorbitant sum of Rs.13,05,600/ as compensation under the head Loss of Dependency.

4. Keeping this submission made by the learned counsel appearing for the appellant, we have gone into the materials available on record.

5. We find that the deceased was working as Driver in a Private Concern, viz., ' Jaysanthosh Logistics India Pvt. Ltd'. In order to prove the income earned by the deceased, the Manager of the said concern was examined as P.W.2, Salary certificate was marked as Ex.P.8, and the Tribunal based on the evidence of the Manager/P.W.2 as well as Ex.P.8, fixed the monthly income of the deceased at Rs.10,200/- and thereafter, by deducting 1/3 towards personal expenses, arrived at a sum of Rs.6,800/- per month and since the age of the deceased was 37, at the time of the accident, based on the same, applied multiplier of '16', and awarded a sum of Rs.13,05,600/- under the head of loss of dependency.

6. In our considered opinion, the sum of Rs.10,200/- fixed by the Tribunal as monthly income of the deceased cannot be stated to be on the higher side at no stretch of imagination considering the present cost of living. In fact, the Tribunal ought to have deducted 1/4 towards personal expenses, instead of 1/3, since the claimants are four in numbers, and assuming that 1/4 is deducted towards personal expenses, the claimants would have got higher compensation under the head loss of dependency. Whereas, the Tribunal has awarded only Rs.13,05,600/- which appears to be nominal-. Therefore, we are of the view that the award passed by the Tribunal calls for no interference.

7. In the result, the Civil Miscellaneous Appeal is

dismissed. It is submitted that the Insurance Company has already deposited 50% of the award amount, as per the conditional stay order granted by this Court, vide order, dated 16.07.2014, in M.P.No.1 of 2014. Hence, the appellant/Insurance Company is directed to deposit the balance award amount with proportionate accrued interests and costs, to the credit of MCOP No.421 of 2010, on the file of the Motor Accident Claims Tribunal (Additional District Judge) Krishnagiri, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the first claimant is entitled to withdraw the amount, (as apportioned by the Tribunal) less than the amount, already withdrawn, if any. As regards the share to be disbursed to the claimants 2 to 4 is concerned, it has to be pointed out that, at the time of filing of the claim petition i.e., in the year 2010, the claimants 2 to 4/children of the deceased were minor aged 16 ,14 and 13 years respectively and by this time, they would have attained majority. Therefore, the claimants 2 to 4 are permitted to withdraw the respective shares, by making necessary applications before the Tribunal. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

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To

1. The Additional District Judge,
Motor Accident Claims Tribunal,Krishnagiri.

Copy to:

The Section Officer, VR Section,
High Court, Madras. (2 Copies)

+1cc to Mr.M.B.Gopalan, Advocate SR.No.12916

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NMI(CO)
GN(05/06/2018)