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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

CORAM

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

C.M.A. No. 2121 of 2017

T.R. Indhubala @ Valli .. Appellant

Vs.

1. M/s.C.E.S. Onyx Pvt. Ltd.,
No.12, Haddows Road, Chennai-6.

2. National Insurance Company Ltd.,
No.25, Whites Road,
Royapettah, Chennai -14.

3. Kuppayee .. Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 29.11.2008 passed by the Motor Accidents Claims Tribunal (Additional District & Sessions Judge, Fast Track Court I, Poonamallee) in M.C.O.P. No. 244 of 2006.

For Appellant : Ms.Jayanthi Baskar for
Mr.J. Mahalingam

For Respondents: Mr.S. Vadivel for R2

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 claimant/wife of the deceased, aggrieved over the quantum of compensation of Rs.6,55,000/- awarded to her as well as to the 3rd respondent/mother of the deceased, for the death of husband of the claimant, namely, C. Vincent, aged about 35 years, working as Tourist Car Operator (Owner cum Driver), allegedly earning about Rs.17,000/- per month, in the accident, which occurred on 03.11.2005.



3. The only question to be decided is with regard to the quantum of compensation.

5. No amount was added towards "Future Prospects" of the deceased, who was aged about 35 years. Following the judgment of the Constitution Bench of the Honourable Apex Court rendered in National Insurance Company Limited V. Pranay Sethi and others reported in 2017 ACJ 2700, 40% is added to the monthly income of the deceased towards "Future Prospects". In that event, the total monthly income would come to,

Considering the size of the family of the deceased, one-third deduction was rightly made towards "Personal Expenses" of the deceased and accordingly, deducting one-third, "the monthly contribution of the deceased to his family" would be,

The appropriate multiplier, based on the age of the deceased, namely, 35 years, as proved by Ex-P3, postmortem



certificate and Ex-P10, educational qualification certificate, is 16. Adopting the said multiplier, "Loss of Income" is computed as hereunder:

Loss of Income :: Rs.7000 x 12 x 16
:: Rs.13,44,000/-

6. The sum of Rs.5000/- awarded to the appellant towards "Loss of Love and Affection" is enhanced to Rs.40,000/- and awarded under the head "Loss of Consortium". Likewise, the sum of Rs.5000/- granted to the 3rd respondent towards "Loss of Love and Affection" is enhanced to Rs.25,000/-. Rs.5,000/- awarded towards "Funeral Expenses" is enhanced to Rs.15,000/. No amount was awarded towards "Loss of Estate" and "Transport Expenses". Hence, a sum of Rs.15,000/- and Rs.10,000/- are awarded under the said heads respectively. Hence, the total compensation payable to the appellant/claimant works out to Rs.14,49,000/- rounded off to Rs.14,50,000/- (Rs.13,44,000 + Rs.40,000 + Rs.25,000/- + Rs.15,000 + Rs.15,000+ Rs.10,000). The rate of interest awarded by the Tribunal @ 7.5% per annum remains intact. The appellant shall pay additional court-fee for the enhanced amount, if any, within a period of two weeks from the date of receipt of a copy of this order.

7. Out of the award amount of Rs.14,50,000/-, the appellant would be entitled to Rs.10 lakhs and the 3rd respondent would be entitled to Rs.4,50,000/-.

8. Since the 2nd respondent Insurance Company has deposited the entire award amount, as ordered by the Tribunal, they are directed to deposit the balance amount, as per the modified award passed by this Court, with proportionate interest and costs, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the respective shares of the appellant and the 3rd respondent, as per the apportionment made by this Court, to their respective bank accounts, through RTGS within a period of one week thereon.

9. Since the 3rd respondent/mother of the deceased remained ex parte before the Tribunal, Registry is directed to mark a copy of this order directly to the 3rd respondent, free of cost. The Tribunal shall verify the identity of the 3rd respondent before making payment out in favour of the 3rd respondent.



10. In the result, the Civil Miscellaneous Appeal is partly allowed and the award of the Tribunal to the tune of Rs.6,55,000/- is enhanced to Rs.14,50,000/- with interest @ 7.5% per annum. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv

To

The MACT (Addl. District & Sessions
Judge, FTC No.1, Poonamallee.)

Copy To: 1. The Section Officer,
V.R.Section, High Court, Madras.

2. Kuppayee,
23/68 Rabrai Estate, Aravenu(Post),
Kothagiri(Taluk), Nilagiri District.

+2 cc to Mr.T.Mahalingam, Advocate Sr.No.37068
+1 cc to Mr.S.Vadivel, Advocate Sr.No.36579

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CSL/25.01.2019