IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM:

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

C.M.A.No.489 OF 2018

RANI ... Appellant/Claimant

Vs

1 S.R.M. TRANSPORT INDIA P LTD.
SRM NAGAR KATTANKULATHUR CHENGALPATTU TK
KANCHEEPURAM DT.

2 THE NEW INDIA ASSURANCE CO.L
D.NO.F-46 1 ST MAIN ROAD 2 ND FLOOR
MANGALAM BUILDING
ANNANAGAR EAST CHENNAI. ... respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed against the Judgment and decree dated 20.03.2017 in MCOP No.231/2016 passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate) Namakkal.

For appellant : Mr.R.Nalliyappan
For 2nd respondent : Mr.D.Nadhamuni
For 1st respondent : No appearance

J U D G M E N T

(made by R.SUBRAMANIAN, J.)

The claimant, whose son died in a motor accident on 5.9.2015, sought for a compensation of Rs.30,00,000/-. The Tribunal awarded a sum of Rs.8,96,000/-. Hence, she is on appeal, seeking enhancement.

2. According to the claimant, the deceased, her son, was a fruit vendor in a bus stand and was earning about Rs.45,000/- p.m. and she is entitled to a sum of Rs.30,00,000/- as compensation. The Tribunal, after scanning the materials available on record, concluded that the accident occurred due to the rash and negligent driving of the bus belonging to the 1st respondent, insured with the 2nd respondent Insurance Company. The said question is not in dispute inasmuch as the Insurance Company has not chosen to file appeal against the award.

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3. On quantum, the Tribunal fixed the monthly income of the deceased at Rs.4,000/- and adding 50% towards future prospects, arrived at an income of Rs.6,000 and deducting 1/3 towards personal expenses, determined the monthly loss of dependency at Rs.4,000/- and adopting multiplier of 18, the Tribunal arrived at a total loss of dependency at Rs.8,64,000/- (Rs.4000 x 12 x 18). Considering the fact that the accident occurred in the year 2015, we are of the opinion that monthly income adopted by the Tribunal is very low. We, therefore, fix the monthly income at Rs.10,000/-, considering the fact that even a coolie would earn more that Rs.400/- per day. Adding 40% towards future prospects, monthly income for the purpose of ascertaining the just compensation is arrived at Rs.14,000/-. The wife of the deceased also died in the very same accident. Hence, we deduct half amount towards personal expenses. Thus, the loss of dependency per month would be Rs.7,000/-. The deceased was aged about 29 years. So the multiplier applicable would be 17. Thus calculated, the total loss of dependency would be Rs.14,28,000/- (Rs.7000 x 12 x 17). The Tribunal awarded a sum of Rs.25,000/- towards loss of consortium, and the same is confirmed. The Tribunal has awarded a sum of Rs.7000/- towards funeral expenses, which is very low. The amount awarded towards funeral expenses is enhanced to Rs.25,000/-. The Tribunal has not awarded any amount towards loss of estate and transportation. Therefore, we award a sum of Rs.15,000/- towards loss of estate and Rs.5,000 for transportation.

4. Thus, the total compensation payable to the claimant works out to Rs.14,98,000/- (Rupees Fourteen Lakhs Ninety Eight Thousand only) and the same is rounded off to Rs.15,00,000/- (Rupees Fifteen Lakhs only). The compensation awarded will carry interest at 7.5% per annum from the date of petition till the date of deposit.

5. It is brought to our notice that the Insurance Company has satisfied the award of the Tribunal. Therefore, the Insurance Company is directed to deposit the balance amount within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the claimant is permitted to withdraw the same.

6. The civil miscellaneous appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal
(Chief Judicial Magistrate) Namakkal.

+1cc to Mr.R.Nalliyappan, Advocate sr.no.62271
+1cc to M/s.D.Nadhamuni, Advocate sr.no.62422

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