IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.02.2018

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THE HON'BLE MR.JUSTICE R.SUBBIAH
and
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

C.M.A.No.3114 of 2014

1.Mrs.Glynis Fatthduck Worth

2.Mr.Leonard Anthony Duckworth ... Appellants/Claimants

Vs.

1.P.Saravanan

2.Reliance General Insurance,
Reliance House,
No.6, Haddows Road,
Nungambakkam,
Chennai-600 006. ... Respondents/Respondents

Civil Miscellaneous Appeals have been filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award dated 29.10.2013 in M.C.O.P.No.4955 of 2010 passed by the Motor Accident Claims Tribunal (IV Court of Small Causes), Chennai

For Appellant : Mr.K.Varadhakamaraj
For Respondents : Mr.N.Vijayaraghavan (For R2)
Exparte-R1

JUDGMENT
(Judgment of the Court was delivered by R.SUBBIAH, J.,)

Not being satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal (IV Court of Small Causes) at Chennai, in and by award dated 29.10.2013 in M.C.O.P.No.4955 of 2010, the present appeal has been filed by the claimants.

2.The appellants herein are the claimants before the Tribunal and they are mother and father of the deceased Kimlin Anthony Duckworth, who died in an motor accident that had occurred on 31.01.2010 involving the lorry bearing Reg.No.TN 28 AC 1110 owned by the 1st respondent and insured with the 2nd respondent-Insurance Company.

3.Since the present appeal has been filed only questioning the quantum of compensation, it is not necessary for this Court to traverse into the other aspects of the award passed by the

Tribunal.

4.So far as the quantum of compensation is concerned, it is the case of the claimants before the Tribunal that at the time of accident, the deceased Kimlin Anthony Duckworth was a bachelor and he was working as Executive (Quality) in CSS Corporate (P) Ltd., Chennai and earning a sum of Rs.19,068/- per month. On that basis, the claimants have made a claim for a sum of Rs.30 lakhs as compensation.

5.In order to prove the income earned by the deceased before the Tribunal, on the side of the claimants, the 1st claimant/mother examined herself as P.W.1 besides examining one Yuvaraj as P.W.3, who is the Assistant Manager of the firm in which the deceased was working. P.W.3 had deposed that the deceased Kimlin Anthony Duckworth was receiving a sum of Rs.14,900/- as monthly salary. Through P.W.3, Ex.P.15-Salary Increament Order and Ex.P.16 - Form-16 were marked. The Tribunal by placing reliance on the said documents had fixed a sum of Rs.14,015/- as monthly income of the deceased by taking the basic pay, House Rent Allowance and Special pay received by the deceased Kimlin Anthony Duckworth into consideration. Since the deceased was a bachelor, the Tribunal deducted 50% amount towards personal expenses and arrived at a sum of Rs.7,007/- as monthly loss of contribution. Thereafter, by applying the multiplier 13 based on the age of the mother of the deceased, the Tribunal has awarded a sum of Rs.10,93,092/- under the head of pecuniary loss to the family. That apart, the Tribunal has awarded a sum of Rs.50,000/- for loss of love and affection and a sum of Rs.10,000/- for funeral expenses. Thus, the Tribunal has passed an awarded for a total sum of Rs.11,53,092/- and rounded off the same to Rs.11,53,100/-.

6.Now, it is the contention of the learned counsel for the appellants/claimants that while applying the multiplier method, the Tribunal by taking the age of the mother of the deceased fixed the lesser multiplier of 13, which has resulted in awarding an inadequate compensation. Further, the Tribunal has not added any amount towards future prospects. Thus, the learned counsel for the appellants/claimants prayed for the enhancement of the compensation amount by adding 40% amount towards future prospects and by applying the multiplier 18 based on the age of the deceased, who was aged 26 years at the time of accident. Further, the learned counsel for the appellants/claimants would submit that the compensation amounts awarded by the Tribunal under the conventional heads are also on the lower side, hence, the same needs proper enhancement.

7. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company made his submissions supporting the award passed by the Tribunal.

8.Keeping the submissions made on either side, We have carefully gone through the entire materials available on record. We find that as contended by the learned counsel for the appellants/claimants, the Tribunal while calculating the compensation under the head of pecuniary loss, has failed to add any amount towards future prospects. Similarly, the Tribunal has taken only the age of the mother of the deceased to fix the multiplier. Considering the facts and circumstance of this case, We are of the opinion that by applying multiplier 18 based on the age of the deceased who was aged 26 years at the time of accident and by adding 40% amount towards future prospects, the calculation could be made to arrive at a just and proper compensation under the head of pecuniary loss. Further, from a perusal of the pay slip-Ex.P.10, We find that the deceased Kimlin Anthony Duckworth was receiving a sum of Rs.17,270/- as monthly salary. Therefore, instead of Rs.14,015- fixed by the Tribunal, it would be appropriate to fix a sum of Rs.17,270/- as monthly income of the deceased Kimlin Anthony Duckworth. Accordingly, if a sum Rs.17,270/- is taken as monthly income and 40% amount is added towards future prospects, the total comes to Rs.24,178/- (17,270 + 6,908). Further, 10% amount has to be deducted towards income tax and if so deducted, the balance amount comes to Rs.21,760/- (24,178 - 2,417). Since the deceased was a bachelor at the time of accident, 50% amount has to be deducted towards personal expenses. If so deducted, the balance amount works out to Rs.10,880/- (21,760 - 10,880), which could be taken as monthly loss of contribution to the family. If multiplier 18 is applied, the total loss of income works out to Rs.23,50,080/- (10,880 x 12 x 18), which could be awarded as a just and proper compensation under the head of loss of income. Hence, the sum of Rs.10,93,092/- awarded by the Tribunal under the head of pecuniary loss is hereby modified and enhanced to Rs.23,50,080/-. That apart, the Tribunal has awarded only a sum of Rs.50,000/- for the loss of love and affection, which appears to be on the lower side. Hence, the same is hereby enhanced to Rs.1,00,000/- at the rate of Rs.50,000/- each for the mother and the father of the deceased. Similarly, as the sum of Rs.10,000/- awarded by the Tribunal for funeral expenses is on the lower side, the same is hereby enhanced to Rs.15,000/-. That apart, it is seen that the Tribunal has not awarded any amount for the loss of estate. Hence, a sum of Rs.15,000/- is hereby awarded for the loss of Estate. Thus, the total compensation amount of Rs.11,53,100/- awarded by the Tribunal is hereby modified and enhanced to Rs.24,80,080/- and the same is rounded off to Rs.24,80,100/-. The break up details of the modified/enhanced compensation amount are as follows_

Pecuniary loss to the family	=Rs.23,50,080/-
Loss of love and affection	=Rs. 1,00,000/-
Loss of estate	=Rs. 15,000/-
Funeral Expenses	=Rs. 15,000/-
Total	=Rs.24,80,080/-
rounded off to	Rs.24,80,100/-

9.In the result, the appeal is partly allowed and the total compensation amount of Rs.11,53,100/- (Rupees Eleven Lakhs Fifty Three Thousand and one hundred only) awarded by the Tribunal is hereby modified and enhanced to Rs.24,80,100/- (Rupees Twenty

Four Lakhs eighty thousand and one hundred only). The Insurance Company is directed to deposit the entire modified/enhanced compensation amount, after deducting the amount if any already deposited, with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period six weeks from the date of receipt of a copy of this order. On such deposit being made, the appellants/claimants are entitled to withdraw the same in equal share, with accrued interest thereon, by making necessary application before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

To,
1.The Motor Accident Claims Tribunal
(IV Court of Small Causes), Chennai.

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

+1cc to Mr.K.Varadhakamaraj, Advocate SR.No.8335
+1cc to Mr.M.B.Gopalan, Advocate Sr.No.9495

AK & GP(co)
sm:28.4.2018