IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.02.2018

CORUM

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

C.M.A.No.3115 of 2014
and
M.P.No.1 of 2014 in C.M.A.No.3115 of 2014

1.Mrs.C.Kanagalakshmi
2.Mr.K.Chittibabu .... 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 common judgment and award dated 29.10.2013 in M.C.O.P.No.4956 of 2010 respectively passed by the Motor Accident Claims Tribunal (IV Court of Small Causes), Chennai

For Appellant : Mr.R.Thiagarajan
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.4956 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 Dinesh Babu @ Thiyagu, who died in a 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 the deceased Dinesh Babu @ Thiyagu was a Proprietor of CK Mobile & CK Travels & Real Estate, Chennai and also working as Chief Admin Support Executive in Peak Technologies, Chennai and he was earning a sum of Rs.20,000/- & Rs.15,000/- per month respectively. On that basis, the appellants/claimants have made a claim for 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 2nd claimant/father examined himself as P.W.4 besides examining one Premkumar as P.W.5, who is the Proprietor of Peak Technologies and Ex.P.21-Diploma Certificate, Ex.P.22-Shop Rental agreement, Ex.P.27-Salary Certificate, Ex.P.29-Bank Statement were marked. Inspite of the production of the said documents on the side of the claimants, the Tribunal has fixed only a sum of Rs.9,000/- as monthly income of the deceased. Thereafter, by deducting 50% amount towards personal expenses, the Tribunal has arrived at a sum of Rs.4,500/- as monthly loss of income to the family. Then, the Tribunal by applying the multiplier 15 based on the age of the mother of the deceased, who was aged 43 years at the time of death of her son Dinesh Babu @ Thiyagu, has awarded a sum of Rs.8,10,000/- 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 award for a total compensation amount of Rs.8,70,000/-.

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 into consideration fixed the lesser multiplier of 15, which has resulted in awarding inadequate compensation. Further, the Tribunal has not added any amount towards future prospects. Thus the learned counsel for the appellants/claimants prayed for enhancement of compensation amount by adding 40% amount towards the future prospects and by applying the multiplier 18 based on the age of the deceased, who was aged 25 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 also are 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 25 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. If the sum of Rs.9,000/- is taken as monthly income of the deceased and 40% amount is added towards future prospects, the total comes to Rs.12,600/- (9,000 + 3,600). Since the deceased Dinesh Babu @ Thiyagu was a bachelor at the time of accident, 50% amount has to be deducted towards personal expenses and if so deducted, the balance amount would come to Rs.6,300/- (12,600 - 6,300). If the multiplier 18 is applied, then the total loss of income works out to Rs.13,60,800/- (6,300 x 12 x 18), which could be just and proper compensation for loss of income. Accordingly, a sum of Rs.8,10,000/- awarded by the Tribunal under the head of pecuniary loss is hereby modified and enhanced to Rs.13,60,800/-. That apart, it is seen that 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 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.8,70,000/- awarded by the Tribunal is hereby modified and enhanced to Rs.14,90,800/-. The break up details of the modified/enhanced compensation amount are as follows_

Pecuniary loss to the family	=Rs.13,60,800/-
Loss of love and affection	=Rs. 1,00,000/-
Loss of estate	=Rs. 15,000/-
Funeral Expenses	=Rs. 15,000/-
Total	=Rs.14,90,800/-

9.In the result, the appeal is partly allowed and the total compensation amount of Rs.8,70,000/- (Rupees Eight Lakhs Seventy Thousand only) awarded by the Tribunal is hereby modified and enhanced to Rs.14,90,800/- (Rupees Fourteen Lakhs Ninety Thousand and Eight 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. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

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

+3cc to M/s.R.Thiagarajan, Advocate Sr.No.8346
+1cc to M/s.M.B.Gopalan, Advocate Sr.No.9496

GP & AK(CO)
sm:28.4.2018

C.M.A.No.3115 of 2014
and
M.P.No.1 of 2014