IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM

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

CMA No. 713 of 2018
&
C.M.P. No. 6150 of 2018

Royal Sundaram Alliance Insurance
Co. Limited,
No.132, Brigade Road, Bangalore. ..Appellant

Vs.

1. P.L. Sathappan
2. Sathyamoorthy ..Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 18.09.2017 passed in M.C.O.P. No. 2150 of 2010 by the Motor Accidents Claims Tribunal (Special District Court) Salem.

For Appellant :: Mr.M. Krishnamoorthy

For Respondents :: Mr.S. Ravichandran

J U D G M E N T
(Judgment of the Court was delivered by N.KIRUBAKARAN,J.)

This Civil Miscellaneous Appeal has been filed by the Insurance Company as against the award of Rs.35,57,624/- granted as compensation for the death of one S. Sathappan, son of the 1st respondent, aged about 23 years, Associate System Engineer, working in IBM, Manayatha Embassy Business Park, Nagawara, Bangalore, allegedly earning about Rs.25,000/- per month, in the accident, which occurred on 22.05.2009 when the deceased was walking on the road from west to east, coming out of the company, a Tata Ace Goods Vehicle, coming from west to east, driven by its driver in a rash and negligent manner, hit the victim from behind, due to which he sustained fatal injuries.

2. Heard Mr.M. Krishnamoorthy, learned counsel for the appellant and Mr.S. Ravichandran, learned counsel for the

claimant/1st respondent.

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

4. According to Mr.M.Krishnamoorthy, learned counsel for the appellant, the Tribunal rightly took Rs.21,652/- as monthly income of the deceased as per Exs-P21 and P22, Salary Slips for the months of April, 2009 and May, 2009 respectively and added 50% towards "Future Prospects" and determined Rs.32,478/- as the total monthly income rightly. But, no amount was deducted towards Income Tax. Therefore, he would seek deduction of income tax from the monthly salary of the deceased while calculating the compensation.

5. As rightly contended by the learned counsel for the appellant, no amount was deducted towards income-tax and therefore, this Court, in order to arrive at the correct annual income of the deceased, proceeds to deduct income tax, taking the total monthly income, as fixed by the Tribunal, at Rs.32,478/-. Then, the annual income of the deceased would be Rs.3,89,736/- (Rs.32,478 x 12). Only 10% has to be deducted towards income-tax. The total amount, after deduction is Rs. 3,68,762/-. The Tribunal rightly deducted 50% towards "Personal Expenses" of the deceased as he was a bachelor. Accordingly, deducting 50%, "the annual contribution of the deceased to his family" would be,

Annual Contribution :: Rs.3,68,762/- (-) 50% (Rs.3,68,762/-)
:: Rs.1,84,381/-.

The age of the deceased was 23 years, at the time of accident, as per Ex-P11, Typewriting English Junior Grade Certificate and multiplier 18 was rightly adopted by the Tribunal. Applying the said multiplier, " Loss of Income" comes to,

Loss of Income :: Rs.1,84,381 x 18
:: Rs.33,18,858/-.

6. As far as other heads are concerned, only a sum of Rs.25,000/- was awarded towards "Loss of Love and Affection". The 1st respondent lost his only son and therefore, a sum of Rs.50,000/- is awarded. The sum of Rs.25,000/- awarded towards "Funeral Expenses" is reduced to Rs.15,000/- as per the judgment of the Constitution Bench of the Honourable Apex Court in Pranay Sethi's case (2017 ACJ 2700). Since no amount was awarded towards "Loss of Estate" and "Transport Expenses", Rs.15,000/- and Rs.10,000/- ar awarded under the said heads respectively. Hence, the total compensation payable to the claimants comes to

Loss of Income :: Rs.33,18,858/-
Loss of Love and Affection:: Rs. 50,000/-

Funeral Expenses	::	Rs. 15,000/-
Loss of Estate	::	Rs. 15,000/-
Transport Expenses	::	Rs. 10,000/-
Total	::	Rs.34,08,858/-
Rounded off to	::	Rs.34,10,000/-

The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

7. It is seen from the award of the Tribunal that the mother of the deceased passed away during the course of trial and therefore, the 1st respondent, the father of the deceased would be entitled to receive the entire compensation amount.

8. The Tribunal, while arriving at the compensation, taking into account, the absence of driving licence by the driver of Tata Ace vehicle, rightly ordered pay and recovery and the said direction stands confirmed.

9. The appellant Insurance Company is directed to deposit the entire award amount, as per the modified award passed by this Court, with interest and costs, before the Tribunal, after deducting the amount already deposited, if any, 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 entire amount to the bank account of the 1st respondent through RTGS within a period of one week thereon.

10. In the result, the Civil Miscellaneous Appeal is partly allowed and the award of the Tribunal to the tune of Rs.35,57,624/- is reduced to Rs.34,08,858/- rounded off to Rs.34,10,000/- with interest @ 7.5% per annum. No costs. Connected C.M.P. is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

nv

To

1. The Special District Court,
MACT, Salem.

2. The Section Officer, VR Section
High Court, Madras.

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No.48844

+1cc to Mr.S.Ravichandran, Advocate SR.No.48780

RJI(CO)

GMY(12/11/2018)