IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2018

CORAM

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

Review Application No.204 of 2018

1.Selvi
2.Minor Senthamizh
3.Minor Amsaveni
4.Minor Bharath
(Minors 2 to 4 are represented by their
mother / natural guardian Selvi) ... Petitioners

Vs

1.The Manager,
Royal Sundaram Alliance Insurance Company Ltd.,
Sundaram Towers, 46, Whites Road,
Chennai-600 014.

2. K.M.Muthukumar

3. M.Murugesan .. Respondents

Prayer : Review Application filed under Order 47 Rule 1 and 2 of CPC read with Section 114 of Civil Procedure Code, to review the order passed in Cross Objection No.88 of 2016 in C.M.A.No.1351 of 2009 dated 01.12.2017.



For Petitioners : Mr.Ma.P.Thangavel
For 1st Respondent : Mrs.R.Sreevidya

ORDER

This Review Application is preferred in cross objection No.88 of 2016 in C.M.A.No.1351 of 2009, by the claimants before the Motor Accident

Claims Tribunal.

2. The only point canvassed in this review petition was that this Court while enhancing the compensation, has omitted to add the future prospects in terms of judgment in ***Smt.Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*** [2009(2) TN MAC 1 (SC)]. The learned counsel for the review petitioners submitted that inasmuch as the victim was aged only 39 years at the time of accident. The petitioners/claimants are entitled to another 50% towards future prospects. The Tribunal has awarded Rs.12,97,920/- towards loss of future income to which, according to the learned counsel, another 50% there of must be added.

3. Heard the learned counsel for the respondent Insurance Company.

4. As per judgment of the Hon'ble Supreme Court of India in ***Sarla Verma case***, income of the victim in salaried class, 50% of the award amount must be added towards future income and accordingly, 50% of Rs.12,97,920/- has to be added to the head of loss of future income. This obviously is an error apparent on the face of the record since this Court by inadvertence has overlooked the law declared by the Hon'ble Supreme Court.

5. Accordingly, total loss to the future income payable will be (Rs.12,97,920/- + Rs.6,48,960/-) = Rs.19,48,880/-, and in all, the total compensation payable to the petitioners/claimants would be

Rs.20,23,960/-. In respect of other aspects, the order passed in C.M.A.No.1351 of 2009 dated 01.12.2017 will remain the same.

6. In the result, this review application is allowed to the extent indicated above. The 1st respondent Insurance Company is directed to deposit the enhanced award amount of Rs.20,23,960/- with accrued interest at 6% p.a., less 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 petitioners/claimants are permitted to withdraw the same forthwith, in the ratio as it was done by the Tribunal. No costs.

16.11.2018

ssn

Index : Yes/No
Internet : Yes/No



To

The Section Officer,
V.R.Section,
High Court,
Madras.

N.SESHASAYEE, J.,

ssn



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