IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:09.01.2018
CORAM
THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU
C.M.A. No. 3205 of 2013
&
M.P. No. 1 of 2013

M/s. United India Insurance Co. Ltd.,
Oriental Theatre Complex,
No.77, Arunachalam Asari Street,
Salem -1. ..Appellant/2nd Respondent in Trial Court

Vs.

1. Tmt.Lalitha

2. Vishal (Minor),S/o.Late Murugan
(2nd respondent minor rep. by
mother and next friend 1st respondent)

3. Mariyammal
4. Chinnathambi
5. Mr.S. Sivaraman

(5th respondent ex parte in Lower Court)
..Respondents/Petitioners 1 to 4/
1st Respondent in Trial Court

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 17.04.2013 passed in M.C.O.P. No. 2328 of 2010 by the Motor Accidents Claims Tribunal (I Additional District Court), Salem.

For Appellant :: Ms.C. Harini for
Mr.N. Vijayaraghavan

For Respondents:: Mr.P. Tamilavel for
R1 to R4

J U D G M E N T

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

This Civil Miscellaneous Appeal has been filed by the Insurance Company questioning the quantum of compensation awarded by the Motor Accidents Claims Tribunal (I Additional

District Court), Salem, in and by award dated 17.04.2013 in M.C.O.P. No. 2328 of 2010 for the death of one Murugan, who died in the accident, that occurred on 05.10.2010.

2. Respondents 1 to 4 herein, who are wife, minor son and parents of the deceased respectively are the claimants before the Tribunal.

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

4. The main contention of the learned counsel for the appellant is that while calculating the compensation, the Tribunal failed to deduct any amount towards income-tax, which has resulted in granting an exorbitant award. Therefore, she would submit that the compensation amount has to be recalculated by deducting income-tax.

5. Per contra, learned counsel for the respondents would support the award passed by the Tribunal as just and reasonable.

6. Keeping the submissions made by learned counsel on either side, we have carefully gone through the entire materials on record.

7. It is the case of the claimants before the Tribunal that the deceased was working as Senior Technical Assistant cum Operator in JSW Steel Company, Pottaneri, Salem and was drawing a sum of Rs.29,734/- per month. To prove the income earned by the deceased, the Assitant Manager of the Company, where the deceased was employed, was examined as P.W.2 and he had deposed that the gross salary of the deceased for the month of April, 2010 was Rs.29,734/- and to that effect, he had produced a letter, which was marked as Ex-P24. On a perusal of the same, we find that the deceased was receiving a sum of Rs.29,734/- as monthly income. Considering the age of the deceased, who was 34 years, at the time of accident, following the judgment of the Honourable Apex Court in Sarla Verma and Others V. Delhi Transport Corporation and Others (2009 ACJ 1298), the Tribunal added 50% of the monthly income of the deceased towards "Future Prospects" and arrived at "Total Monthly Income" as follows:

Monthly Income	::Rs.29,734/-
Add: 50% towards "Future Prospects"	::Rs.29,734/- (+) 50% (Rs.29,734/-)

Total Monthly Income :: Rs.44,601/-

The Tribunal, considering the number of dependants, had deducted one-third towards "Personal Expenses" of the deceased, being Rs.14,867/- and arrived at Rs.29,734/- as "Monthly Contribution of the deceased to his family". Adopting multiplier 16, based on the age of the deceased, namely, 32 years, "Loss of Dependency" was calculated as,

Loss of Dependency :: Rs.29,734 x 12 x 16
:: Rs.57,09,828/-

8. As rightly contended by the learned counsel for the appellant, we find that the Tribunal has failed to make any income-tax deduction. Today, when the appeal is taken up for hearing, the learned counsel for the appellant has produced income-tax rates applicable for the year 2010. At that time, tax exemption limit was upto Rs.1,60,000/- and therefore, it would be appropriate to deduct income-tax for the balance amount, at 10%, as per the rates applicable on that date and re-determine the calculation accordingly.

9. The monthly income of the deceased has been fixed at Rs.29,734/- and therefore, the annual income would be (Rs.29,734/- x 12) Rs. 3,56,808/-. Since income tax exemption limit was upto Rs.1,60,000/-, at the relevant point of time, for the amount exceeding 1,60,000/-, (ie) (Rs.3,56,808/- (-) Rs.1,60,000/-), for Rs.1,96,808/-, 10% has to be deducted towards income-tax, which comes to Rs.19680.8. After deducting the same from the Annual Income of the deceased, the amount comes to Rs. 3,37,128/-. Now, adding 50% towards "Future Prospects", as has been done by the Tribunal, the "Total Annual Income" comes to,

Total Annual Income ::Rs.3,37,128/- (+) 50% (Rs.3,37,128/-)
:: Rs.5,05,692/-

Deducting one-third towards "Personal Expenses", the "Annual Contribution of the deceased to his family" is,

:: Rs.5,05,692/- (-) 1/3 (Rs.5,05,692/-)
:: Rs.3,37,128/-

Applying multiplier 16, as rightly adopted by the Tribunal, "Loss of Dependency" is arrived at as hereunder:

Loss of Dependency :: Rs.3,37,128 x 16
:: Rs.53,94,048/-

Therefore,the amount awarded by the Tribunal towards "Loss of Dependency" to the tune of Rs.57,39,753/- is hereby reduced to Rs.53,94,048/-.

10. As far as the amounts awarded under the other heads are concerned, the Tribunal has awarded only a sum of Rs.10,000/- towards "Loss of Consortium" and the same is enhanced to Rs.40,000/-, following the judgment of the Honourable Apex Court rendered in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC). The Tribunal has not awarded any amount towards "Loss of Estate" and hence, a sum of Rs. 15,000/- is awarded under the said head. The amount awarded towards "Funeral Expenses" is enhanced from Rs.5000/- to 15,000/-. As far as "Loss of Love and Affection" is concerned, the sum of Rs.10,000/- awarded by the Tribunal is meagre and the same is enhanced to Rs.40,000/-. The amounts under the other heads, namely, "Transportation Expenses" and "Medical Expenses" are set aside. Hence, the total compensation payable to the claimants, works out to,

Loss of Dependency	::	Rs. 53,94,048/-
Loss of Consortium	::	Rs. 40,000/-
Loss of Love and Affection	::	Rs. 40,000/-
Funeral Expenses	::	Rs. 15,000/-
Loss of Estate	::	Rs. 15,000/-
Total	::	Rs. 55,04,048/-

11. In fine, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal to the tune of Rs.57,39,753/- is reduced to Rs.55,04,048/-. Except the above modifications, the award of the Tribunal remains intact on all other aspects.

12. It is submitted that the appellant Insurance Company has already deposited the entire award amount, along with interest and costs, before the Tribunal.

13. In view of the above submission made by the learned counsel for the appellant, as per the modified award passed by this Court, from the compensation amount of Rs.55,04,048/-, the major claimants are permitted to withdraw their respective shares as per the apportionment of the Tribunal. The share of the minor claimant shall be deposited in any one of the Nationalised Banks in interest bearing Fixed Deposit till he attains majority. The 1st respondent/mother of the minor is permitted to withdraw interest accruing on such deposit once in three months. The excess amount lying in deposit shall be refunded to the appellant Insurance Company. No costs. Connected M.P. is closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

To

1.The I Addl. District Judge,
Motor Accident Claims Tribunal, Salem

2.The Section Officer,
VR Section, High Court, Madras(2 copies)

+1cc to Mr.M.B.Gopalan, Advocate sR.No.2542
+1cc to Mr.P.Tamilavel, Advocate SR.No.1420

C.M.A. No. 3205 of 2013

SJ(CO)
sm:12.2.2018