IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.07.2019
CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No. 1491 2007 and
M.P.No.2 of 2007

The National Insurance Co.Ltd.,
Manojiappa Street, Thanjavur. ... Appellant/2nd Respondent

Vs.

1.Venkatesan
2.Mahalakshmi
3.Prabhu
4.Shankar
(4th respondent ex parte before lower Court and
hence Notice may be dispensed with) .... Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 30.11.2005 made in MCOP No.386 of 2005 on the file of the Motor Accident Claims Tribunal, District Judge, Perambalur.

For Appellant : Mr.N.Vijayaraghavan

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, the appellant Insurance Company has preferred this appeal.

2. The case in brief is as follows:

On 23.03.2005 at about 00.20 hours, one Lakshmi Narayanan @ V.L.Narayanan was riding his Hero Honda motor cycle bearing Registration No.TN45 AA 9078 on Chennai to Dindigul Road along with a pillion rider. When he was nearing Senthaneerpuram, Trichy, a lorry bearing Registration No.TN H 5697 came from the opposite direction in a rash and negligent manner and dashed against the motor cycle. Due to the said impact, the said Lakshmi Narayanan sustained multiple injuries and died on 25.03.2005 at Trichy Maruthei Hospital, despite treatment. Hence, the respondents 1 to 3, who are the legal heirs of the deceased Lakshmi Narayanan, filed a claim petition claiming a compensation of Rs.8,00,000/-. The Tribunal, on consideration of the oral and documentary evidence adduced by the parties, awarded a total compensation of Rs.7,54,000/- with interest at 7.5%p.a. from the date of petition. Branding the quantum so awarded as excessive and exorbitant, the insurance company has come up with this appeal.

3.The learned counsel for the Appellant/Insurance Company has only questioned the quantum of compensation awarded by the Tribunal, contending that without considering the age of the parents, the Tribunal erred in fixing the multiplier of 18 on the basis of the age of the deceased; and the compensation of Rs.7,49,520/- awarded under the head "loss of income" is on the higher side, in the case of death of a bachelor and hence, the same needs reduction substantially.

4.Heard the learned counsel for the Appellant/Insurance Company and perused the materials available on record.

5.Though notice was ordered way back in the year 2007, the Appellant/Insurance Company has not taken proper steps to serve papers on the respondents, even at this length of time. However, considering the paucity of time, this Court is inclined to dispose of this appeal, on merits.

6.There is no dispute with regard to the liability of the insurance company to pay compensation to the respondents/claimants. What was questioned herein is the quantum of compensation awarded by the Tribunal.

7.The first respondent/father of the deceased was examined as P.W.1, who deposed that the deceased was aged about 25 years and was earning Rs.5,600/- per month by working in the Tamil Nadu Special Police 1st Battalion. In the absence of specific document, the Tribunal, based on Ex.P2 post mortem report, has fixed 25 years as the age of the deceased at the time of accident and adopted the multiplier of 18. Though the learned counsel for the appellant insurance company contended that in the case of bachelor, the Tribunal ought to have adopted the multiplier based on the age of the parents, this Court is not inclined to accept the same, in the light of the decision of the Supreme Court in National Insurance Co. Ltd v. Pranay Sethi, [2017 SCC OnLine SC 1270], wherein, it was held that multiplier had to be applied based on the age of the deceased and not based on the age of the mother of the deceased. One Duraiswamy, who was working as IInd Grade Police, was examined as P.W.3, according to whom, the deceased was getting Rs.5,206/- as month salary. Ex.P5 is the salary certificate. Based on those oral and documentary evidence, the Tribunal has rightly taken the monthly income of the deceased at Rs.5,206/- and after deducting 1/3rd towards his personal expenses, ultimately determined the loss of income at Rs.7,49,520/- (Rs.3470/- x 12 x 18), which this Court is not inclined to interfere. That apart, the Tribunal has awarded Rs.2,500/- towards loss of estate and

Rs.2,000/- towards funeral expenses, which are just and reasonable and hence, the same are hereby confirmed.

8.Finding no merits, this appeal deserves to be dismissed and is dismissed. Consequently, the award passed by the Tribunal is confirmed. No costs. The connected miscellaneous petition is closed.

9.The Appellant / Insurance Company is directed to deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the same to the respective Savings Bank Account of the respondents/claimants, as per the ratio of apportionment made by the Tribunal, within one week thereafter, through RTGS.

Sd/-
Assistant Registrar(CS-IV)

// True Copy//

Sub Assistant Registrar

kv/rk

To

1. The Motor Accident Claims Tribunal, District Judge, Perambalur.

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

+1cc to Mr.N.Vijayaraghavan, Advocate, SR.No.62465.

C.M.A.No. 1491 2007 and
M.P.No.2 of 2007

MR(CO)
CSR: 24/01/2020