IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.M.A. No. 869 of 2015

The New India Assurance Co. Ltd.,
Namakkal,
No.45, Moore Street,
Regional Office, Chennai – 1 ... Appellant/2nd Respondent

Vs.

1. V.Gajalakshmi
2. Minor Tanuj Satish Velayudham
3. Meena
4. C.M. Velayudham ..Respondents 1 to 4/Petitioners
5. M/s. K.S.L. Transport,
Dharnhera, Rewari,
Gurgaon, Haryana – 123 401,
P.O. 13728251 ...5th Respondent/1st Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in MCOP No. 901 of 2013, dated 21.11.2014, on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : Mr.K.K.Dhandapani
for Mr.K.Varadhakamaraj
for R1 to R4.

JUDGMENT
(Delivered by M.M.Sundresh,J.)

This appeal is preferred against the award of the Tribunal with specific challenge to the quantum fixed. Therefore, we are not willing to go into the issues of negligence and liability.

2. Learned counsel appearing for the appellant would submit that the Tribunal fixed the income at Rs.1,32,144/- p.m., of the

deceased, who is a Software Engineer. However, non recurring income, which was personal to the deceased, has not been duly deducted and, therefore, can never be carried on to the dependents. Learned counsel further submitted that the deduction was made by one-third instead of one-fourth. Accordingly, the learned counsel gave the following calculation, which is inclusive of the one awarded by the Tribunal and the one respondents/claimants are entitled to:-

Award of the Tribunal

Income Fixed	Rs.1,32,144/- p.m.
Future Prospects	50%
Annual Dependency – less IT and Professional Tax	Rs.1,23,717 + 50% less 1/3 x 12
Multiplier – 34 years	16
Pecuniary Loss	Rs.1,84,575.50p less 1/3 x 12 x 16 = Rs.2,37,53,664/-
Loss of Consortium	Rs.1,00,000/-
Loss of Love and Affection	Rs.3,00,000/-
Funeral Expenses	Rs.25,000/-
Loss to Estate	Rs.3,00,000/-
Total	Rs.2,44,78,664/-

Possible Assessment

Income Fixed	Rs.1,32,144/- p.m.
Less Non Recurring Income – 10%	Rs.1,18,930/- p.m.
Income Tax – Less 20%	Rs.95,144/- p.m.
Future Prospects – 50%	Rs.1,42,716/- p.m.
Multiplier – 34 years	16
Dependency	Rs.1,42,716 less ¼ = Rs. 1,07,037/- p.m.
Pecuniary Loss	Rs.1,07,037 x 12 x 16 = Rs.2,05,51,104/-
Funeral Expenses	Rs.15,000/-
Loss to Estate	Rs.15,000/-
Loss of Consortium	Rs.40,000/-
Loss of Love and Affection	Rs.40,000/- x 3 = Rs.1,20,000/-
Total	Rs.2,07,41,104/-

3. Learned counsel for the respondents/claimants does not seriously dispute the aforesaid calculation arrived. This Court appreciates the fair stand taken by both the counsel. We modify the award as submitted by the learned counsel appearing for the appellant by approving the "possible assessment", extracted above. Accordingly, the award passed by the Tribunal for sum of Rs.2,44,78,664/- stands modified to Rs.2,07,41,104/-.

4.The appellant is directed to deposit the modified compensation amount along with 7.5% interest, less the amount already deposited, to the credit of M.C.O.P. No. 901 of 2013 on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai, within a period of six weeks from the date of receipt of a copy of this judgment.

5.On such deposit, claimants 1, 3 and 4 are entitled to withdraw their respective shares along with proportionate interest. Insofar as the share of the minor second claimant in the modified compensation is concerned, the Tribunal is directed to deposit the said amount in the Indian Bank, High Court Branch, Chennai in fixed deposit till the second claimant attains majority.

6.The Tribunal while disbursing the above said modified amount shall take into consideration the order dated 16.06.2015 passed by this Court, by which the 1st respondent (widow of the deceased) was permitted to withdraw Rs.50 lakhs and the 3rd respondent (mother of the deceased) was permitted to withdraw Rs.25 lakhs and the amount of Rs.25 lakhs was directed to be deposited in Indian Bank, High Court Branch, Chennai towards the share of the minor second respondent. Except the above modification, all other directions issued by the Tribunal shall hold good.

The appeal is allowed as indicated above. No costs. Consequently, connected MP Nos. 1 and 2 of 2015 are closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

ssm

To:

1. The II Judge,
   Small Causes Court
   Motor Accidents Claims Tribunal,
   II Court of Small Causes, Chennai.

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

+1cc to Mr.N.Vijayaraghavan, Advocate SR.No.13642

+1cc to Mr.K.K.Dhandapani, Advocate SR.No.12478

C.M.A. No. 869 of 2015

CNR(CO)
GMY(03/10/2019)