THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2019

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1403 of 2017

1.Kalaiselvi
2.Sabarish
3.Jayalakshmi
4.Karuppannan ... Appellants/Claimants

Vs.

1.Muthusamy

2.M/s.Cholamandalam MS General Insurance Company Limited,
Omalur Main Road, Opp. Vijaya Nursing Home,
Lakshmi Vilas Bus Stand, Salem - 7.

3.Prabanjan

4.M/s.Iffco Tokya General Insurance Company Limited,
JH Towers, II Floor,
New No.26, Old No.302, LIC Colony Road,
Salem. ... Respondents/Respondents

PRAYER : Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 16.04.2015 in M.C.O.P.No.211 of 2011 on the file of the Special Court, Motor Accidents Claims Tribunal, Salem.

For Appellants : Mr.R.Selvakumar

For Respondents : Mr.N.Vijayaraghavan for R2
Mr.J.Michael Visuvasam for R4
R1 and R3 - Tapal returned

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

This appeal is preferred by the claimants seeking enhancement of the compensation granted by the Tribunal in M.C.O.P.No.2011 of 2011 on the file of the Special Court, Motor Accidents Claims Tribunal, Salem. The deceased was stated to be an Engineer. It is the case of the appellants that the deceased was a Director of Kongu Exports Granites Company and was drawing salary of Rs.40,000/- per month. From agriculture, he was earning Rs.10,000/- per month. Thus, the total monthly income of the deceased is Rs.50,000/- per month.

2. The claimants are the wife, son and the parents. The deceased was aged about 48 years at the time of accident. The Tribunal, awarded Rs.15,19,000/- as compensation under the following heads:-

Monthly Income	Rs.15,000/- p.m.
Dependency - 1/3	Rs.10,000/-
Multiplier - 48 years	13
Pecuniary Loss	Rs.10,000/- x 12 x 13 = Rs.15,60,000/-
Less Income Tax - 10%	Rs.14,04,000/-
Funeral Expenses	Rs.25,000/-
Loss of Consortium	Rs.40,000/-
Love & Affection - Son	Rs.30,000/-
Love & Affection - Parents (10,000 * 2)	Rs.20,000/-
Total	Rs.15,19,000/-

3. The learned counsel appearing for the appellants submitted that the monthly income has been wrongly fixed. The Tribunal has failed to consider the Bank pass-book of the deceased. The qualification of the deceased is not in dispute. No amount has been added towards future prospects. Therefore, the appeal will have to be allowed.

4. The learned counsel appearing for the respondents would submit that no document has been produced to substantiate the monthly income of the deceased. The Tribunal, has fixed Rs.15,000/- as monthly income of the deceased for the accident occurred in the year 2011. Thus,

the order passed by the Tribunal requires no interference.

5. We find that the monthly income fixed by the Tribunal at Rs.15,000/- is not correct. This, we hold so by taking into consideration the qualification of the deceased. Though in the appeal, the monthly income has been claimed at Rs.24,000/-, we are inclined to fix Rs.20,000/- as monthly income by taking into consideration the Bank balance of the deceased. In such view of the matter, we fix the income at Rs.20,000/- per month. After deducting one-fourth, the loss of dependency would be arrived at Rs.15,000/- per month.

6. The Tribunal has not added the future prospects while awarding the compensation. As per the judgment of National Insurance Company Limited v. Pranay Sethi, reported in (2017) 16 SCC 680, the same is fixed at 25%. The age of the deceased was 48 years at the time of the death and thus by applying multiplier '13', a sum of Rs. 29,25,000/- has been arrived at. Thus, by adding other conventional heads, sum of Rs.31,15,000/- has been fixed as compensation as under:

Monthly Income	Rs.20,000/- p.m.
Dependency - ¼	Rs.15,000/-
Future Prospects - 25%	Rs.15,000/- + Rs.3,750/- = Rs.18,750/-
Multiplier - 48 years	13
Pecuniary Loss	Rs.18,750 x 12 x 13 = Rs.29,25,000/-
Funeral Expenses	Rs.15,000/-
Loss of Consortium	Rs.40,000/-
Love & Affection	Rs.1,20,000/-
Loss of Estate	Rs.15,000/-
Total	Rs.31,15,000/-

The enhanced compensation of Rs.31,15,000/- is apportioned as under:

(i) 1st claimant .. Rs.16,00,000/-
(ii) 2nd claimant .. Rs.10,00,000/-
(iii) 3rd and 4th claimants .. Rs.5,15,000/- (equal share)

7. In view of the above, the Civil Miscellaneous Appeal stands allowed. No costs. The compensation of Rs.15,19,000/- awarded by the Tribunal is enhanced to

Rs.31,15,000/-. The second respondent/insurance company is directed to deposit the enhanced compensation amount along with interest as ordered by the Tribunal, less the amount if any already deposited, to the credit of M.C.O.P.No.2011 of 2011 on the file of the Special Court, Motor Accidents Claims Tribunal, Salem, within a period of eight weeks from the date of receipt of a copy of the judgment.

9. We also direct the Tribunal to transfer the respective shares of the claimants by way of RTGS to the bank accounts of the claimants within a period of three weeks from the date of deposit of the award amount.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

ssm

To

The Special Court,
Motor Accidents Claims Tribunal,
Salem.

+1cc to Mr.R.Selvakumar, Advocate, S.R.No.104758
+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.105912
+1cc to Mr.J.Michael Visuvasam, Advocate, S.R.No.104955

C.M.A.No. 1403 of 2017

RSV(CO)
CB(14/08/2020)