IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2019

CORAM:

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

C.M.A. No. 707 of 2017

The Branch Manager
United India Insurance Co.Ltd
Branch Office,No.46-51, TKM Complex,
Katpadi Road,
Thottapalayam,
Vellore – 632 004. ...Appellant

Vs.

1.Hemalatha
2.Minor K. Hariharan
3.Palani
4.Kavitha
5. Umamaheswari ... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree in M.C.O.P.No. 208 of 2014 on the file of the Motor Accident Claim Tribunal (Spl. District Judge), Krishnagiri, dated 16.11.2015.

For Appellant : Mr.T.Ravichandran

For Respondents : Mr.S.P.Yuvaraj
for respondents 1 to 4

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

The appeal is only on the quantum. The deceased died on 11.12.2013. The deceased was aged about 28 years and was working as Head of the Design Engineer in a private concern. The claimants are wife, minor child and the parents of the deceased. The Tribunal fixed the income of the deceased at Rs.20,000/- per month and added 50% towards the future income. Along with the same, amount was awarded under conventional heads and, accordingly, a sum of Rs.42,64,000/- was awarded. Challenging the same, the present appeal has been filed.

2. Learned counsel appearing for the appellant submitted that without any basis the Tribunal has fixed Rs.20,000/- per month as income. Even the salary certificate produced would indicate that the income would come only to Rs.10,000/-, and, therefore, the aforesaid amount will have to be reduced.

3. Learned counsel for the appellant made one more submission with respect to 50% awarded by the Tribunal towards the future income. It is submitted that inasmuch as the deceased was employed in a private concern, as per the recent Constitution Bench judgment in National Insurance Company Ltd. v. Pranay Sethi, reported in (2017) 16 SCC 680, 40% ought to have been given towards the future income.

4. Learned counsel for the respondents 1 to 4/claimants submitted that Ex.P14 salary certificate will have to be read along with Exs.P15 and P16. These two documents would show that subsequently the salary has been increased. Therefore, the order would require no interference.

5. Learned counsel appearing for the respondents 1 to 4/claimants submitted that what is important is the nature of the employment of the deceased and, therefore, awarding of 50% towards future income is just and proper.

6. Insofar as the income fixed at Rs.20,000/- per month is concerned, we find that the Tribunal is not correct in doing so. Exs.P14 to P16 are given on 22.06.2015. Admittedly, the deceased died in the year 2013, i.e., on 11.12.2013. Furthermore, the house rental allowance has also been included in it. Therefore, we are of the considered view that the aforesaid document cannot be relied in toto. However, the fixation of Rs.10,000/- per month may be on the lower side. Admittedly, the deceased was a qualified Engineer and is in permanent job. Therefore, we fix his income at Rs.15,000/- per month, while not disturbing 50% towards the future income, as the nature of the employment is permanent. From the said sum of Rs.15,000/-, one-fourth is deducted towards his personal expenses and his monthly income is arrived at Rs.11,250/- and his annual income is fixed at Rs.1,35,000/-. To this, 50% is added towards future income and the annual income is fixed at Rs.2,02,500/- (Rs.1,35,000+Rs.67500). To this, multiplier of '17' is applied and the loss of dependency is fixed at Rs.34,42,500/-. To the said amount, the amounts awarded towards conventional heads to the tune of Rs.1,33,000/- by the Tribunal is added. By doing so, we arrive at a sum of Rs. 35,75,500/-. Out of the said amount, the first claimant/wife is entitled to Rs.14,00,000/-; the second claimant/minor son is entitled to Rs.15,75,500/-; and the third and fourth claimants/parents are entitled to Rs.3,00,000/- each. In all other respects, the order passed by

the Tribunal stands confirmed. The excess amount, if any, already deposited by the appellant is permitted to be withdrawn along with proportionate accrued interest by filing appropriate application before the Court below.

Accordingly, the order of the Tribunal stands modified to the effect as indicated above and the appeal is allowed. No costs. Consequently, connected C.M.P. No. 3914 of 2017 is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

ssm

To:-

The Special District Judge,
Motor Accidents Claim Tribunal,
Krishnagiri.

Copy To
The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.T.Ravichandran, Advocate SR.No.33219

+1cc to Mr.SP.Yuvaraj, Advocate SR.No.33311

C.M.A. No. 707 of 2017

GMY(23/05/2019)