IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2019

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. Nos. 2415 of 2018 & 2648 of 2018

C.M.A. No. 2415 of 2018

M/s. Reliance General Insurance Company Limited,
NTG Complex, B1 No.14,
Ramaswamy Street, West Tambaram,
Chennai. ..Appellant/3rd Respondent

Vs.

1. Mohanraj
2. Sarathamani ..Appellant/Petitioner
3. Narandrsurya
4. P. Arunthathi

..Respondents 3 & 4/Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 02.08.2017 passed in M.C.O.P. No. 566/2014 by the Motor Accidents Claims Tribunal (I Addl. District Court), Tiruppur.

For Appellant :: Mr.P. Suresh for Mr.K. Moorthy

For Respondents :: Mr.Ma.P. Thangavel for R1 & R2

R3 & 4 :: Set Exparte

C.M.A. No. 2648 of 2018

1. Mohanraj
2. Sarathamani ..Appellants/Petitioners

Vs.

1. Narandrsurya
2. P. Arunthathi

3. Reliance General Insurance Company
Limited,
NTG Complex, B1, NTG Complex, B1,
No.14, Ramaswamy Street,
West Thambaram, Chennai. ..Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 02.08.2017 passed in M.C.O.P. No. 566/2014 by the Motor Accidents Claims Tribunal (I Addl. District Court), Tiruppur.

For Appellants :: Mr.Ma.P. Thangavel

For Respondents:: Mr.P. Suresh for
Mr.K. Moorthy for R3

C O M M O N J U D G M E N T

Two appeals have been preferred, one by the Insurance Company (C.M.A. No. 2415 of 2018) and the other by the claimants (C.M.A. No. 2648 of 2018) questioning the quantum of compensation awarded by the Tribunal for the death of one M. Siddharth, aged about 21 years, doing MBA in SRM College, in the accident, which occurred on 17.05.2014, when he was travelling in a car, which was driven rashly and negligently, resulting in dashing against the divider of the road.

2. Heard Mr.K. Moorthy, learned counsel representing Mr.P. Suresh, learned counsel for the Insurance Company and Mr.Ma.P. Thangavel, learned counsel assisted by Mr.M.Lokesh, learned counsel for the claimants.

3. The only question to be decided is with regard to the quantum of compensation.

4. The Tribunal, considering the fact that the deceased was pursuing his MBA Course, fixed the monthly income at Rs.10,000/- per month and added 50% towards "future prospects" and determined the monthly income at Rs.15,000/- per month. While the learned counsel for the claimants would submit that it is on the lower side, learned counsel for the Insurance Company would submit that it is on the higher side.

5. It is proved through Ex-P5, BBA provisional certificate, Ex-P6, Degree Certificate and Ex-P8, Provisional Allotment of MBA seat and Ex-P9, Diploma in Computer Applications that the deceased was well-qualified having a Bachelor's Degree and a Diploma in Computer Applications.

Therefore, the amount determined by the Tribunal as monthly income of the deceased is on the lower side. A Division Bench of this Court, to which one of us was a party, in C.M.A. No. 1173 of 2017, by judgment dated 09.07.2018, determined the monthly income of an Engineering Student at Rs.20,000/- per month. Following the same, this Court also determines the monthly income at Rs.20,000/-. In the light of the judgment of the Honourable Supreme Court in National Insurance Company Limited V. Pranay Sethi and others reported in 2017 ACJ 2700, 40% has to be added towards 'future prospects'. Therefore, 50% added by the Tribunal towards ' future prospects' is set aside. Adding 40% towards 'future prospects', the ' Monthly Income' comes to,

Monthly Income :: Rs.20,000/-
Add: 40% towards 'future prospects' :: Rs.20,000/- (+) 40% (Rs.20,000/-)
Monthly Income :: Rs.28,000/-

The deceased died as a bachelor. Therefore, 50% has to be deducted towards "personal expenses" as per the judgment of the Honourable Supreme Court in Smt. Sarla Verma & Ors V. Delhi Transport Corporation and Another reported in 2009 ACJ 1298 SC.. Accordingly, deducting 50% towards "personal expenses", "the total monthly income" comes to Rs.14,000/- [(Rs.28,000/- (-) 50% (Rs.28,000/-)]. It is proved by Exs-P6, P9 as well as P2 that the age of the deceased was 21 years at the time of accident and the appropriate multiplier 18 was rightly adopted by the Tribunal. Applying the said multiplier, "Loss of Income" is calculated thus:

Loss of Income :: Rs.14,000 x 12 x 18
:: Rs.30,24,000/-

Towards "Funeral Expenses", a sum of Rs.15,000/- is awarded thereby reducing Rs.25,000/- awarded by the Tribunal under the said head. A sum of Rs.15,000/- is awarded towards "Loss of Estate" following the judgment in Pranay Sethi's case. The amount of Rs.10,000/- awarded towards "Transportation Expenses" is hereby confirmed. The sum of Rs.25,000/- granted towards "Loss of Love and Affection" is very unreasonable and the same is enhanced to Rs.50,000/-. To sum up, the claimants are entitled to compensation of Rs.31,14,000/- with interest @ 7.5% per annum.

6. Additional Court-fee, for the enhanced amount, if any, to be paid by the claimants.

7. The Insurance Company is directed to deposit the entire amount, as per the modified award passed by this Court, with interest and costs, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the same to respective Bank Account of the claimants equally, after

getting those details, through RTGS,, within a period of two weeks thereon.

8. In fine, the Civil Miscellaneous Appeal filed by the Insurance Company (C.M.A. No. 2415 of 2018) is dismissed and the Civil Miscellaneous Appeal filed by the claimants (C.M.A. NO. 2648 of 2018) is partly allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

nv

To

1.The MACT (I Addl. District Court),Tiruppur.

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

+1cc to Mr.MAP.Thangavel, Advocate SR.No.6182

+1cc to Mr.K.Moorthy, Advocate SR.No.5969

C.M.A. Nos. 2415 & 2648 of 2018

CNR(CO)
GMY(23/04/2019)