IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CMA.No.2858 of 2018

1.M.Valarmathi
2.M.Sunil Kumar
3.M.Sunitha
4.K.Anjalai ... Appellants/Petitioners

/Vs/

1.T.S.Rajan
2.Future Generali Insurance Co.Ltd.,
Plot No.55, Old No.27,
Vijay Raghave Road,
T.Nagar, Chennai - 600 017. ... Respondents/Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 26.03.2018 made in MCOP.No.3518 of 2014 on the file of the Chief Judge, Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellants : Mr.A.Shanmugaraj

For Respondent No.2 : Ms.C.Harini for Mr.N.Vijayaraghavan

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgement and Decree dated 26.03.2018 made in MCOP.No.3518 of 2014 on the file of the Chief Judge, Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final disposal at the admission stage itself.

3.The appellants are the claimants in MCOP No.3518 of 2014 on the file of the Chief Judge, Small Causes Court, (Motor Accident Claims Tribunal), Chennai. They filed the above claim petition claiming a sum of Rs.25,00,000/- as compensation for the death of one K.Mohanraj, who died in the accident that took place on 25.01.2014. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the Car belonging to the first respondent and directed the second respondent to pay a sum of Rs.21,49,522/- as compensation to the appellants. Not being satisfied with the award amount granted by the Tribunal, the appellants have come out with the present appeal challenging the portion of the award applying split multiplier method and seeking enhancement of compensation.

4.The learned counsel appearing for the appellants contended that the Tribunal ought to have fixed the loss of contribution for 11 years at Rs.27,65,477/- (Rs.2,51,407 x 11) instead of Rs.20,79,522/- (Rs.2,51,407 x 6+ 114216x5). The Tribunal ought to have awarded just compensation of Rs.29,35,477/- as per the judgment of the Hon'ble Apex Court reported in 2011 (1) TN MAC 161 SC (K.R.Madhusudan & others Vs. Administrative Officer & Another), even though the appellants have claimed lesser compensation. The Tribunal ought to have awarded 12 % interest per annum as per the judgment of the Hon'ble Apex Court, instead of awarding 7.5% per annum.

5.Per contra, the learned counsel appearing for the second respondent/Insurance Company contended that the deceased was working as a Conservancy Inspector in Corporation of Chennai and was aged 52 years at the time of the accident and his retirement age is 58. In view of the same, the Tribunal has awarded compensation by applying split multiplier 6 + 5. The compensation awarded by the Tribunal by applying split multiplier is proper and valid and the appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

7.From the materials available on record, it is seen that the deceased was working as Conservancy Inspector in Corporation of Chennai. The appellants have not let in any evidence to show that after retirement, the deceased would get employment and earn some salary. The application of split multiplier has been discussed in the judgment of the Hon'ble Supreme Court reported in 2014 (1) TN MAC 481 (SC) (Puttamma & ors. Vs. K.L.Narayana Reddy & anr.), wherein, it has been held in para 34 as follows:

> "34.We, therefore, hold that in absence of any specific reason and evidence on record the Tribunal or the Court should not apply Split Multiplier in routine course and should apply Multiplier as per decision of this Court in the case of Sarla Verma (supra), as affirmed in the case of Reshma Kumari (supra).

Compliance of Section 158(6) & 166 (4) of the Act, 1988.”

8.A reading of the paragraph 34 of the judgment of Puttamma's case referred to above shows that in the absence of any specific reason and evidence on record the Tribunal or the Court should not apply Split Multiplier in routine course. In the present case, there is nothing on record, to show that the deceased would have been employed after retirement. Under such circumstances, the split multiplier adopted by the Tribunal is valid. The Tribunal, while granting compensation after retirement, erred in taking monthly income of the deceased as Rs.25,379/- adding a sum of Rs.3,807/- for future prospects. While awarding compensation for the period of service, the Tribunal has taken Rs.29,186/- as salary per month, after deducting 10% towards income tax and after adding 15% towards future prospects. Taking the said amount as income of the deceased before retirement, 50% of the said amount will be Rs.14,593/- and deducting ¼th towards personal expenses, the loss of income for the period after retirement is calculated as follows:

14,593 x 12 x 5 x 3/4 =Rs. 6,56,685/-.

The amounts awarded by the Tribunal under all the other heads are fair and reasonable and the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Compensation for a period of 6 years	Rs.2,51,407 x 6 = Rs.15,08,442/-	Rs.15,08,442/-	confirmed
2.	Pension (Rs.25379/2)	Rs.12,690/-	Rs.14,593/-	enhanced
3.	Compensation for a period of 5 years	Rs.9518 x 12 x 5 = Rs.5,71,080/-	Rs.14,593 x 12x 5 x 3/4 =6,56,685/-	enhanced
4.	Total Loss of pecuniary benefits (8+11)	Rs.20,79,522/-	Rs.21,65,127/-	Added Column (8+11)

5.	Loss of consortium to first petitioner	Rs.40,000/-	Rs.40,000/-	confirmed
6.	Loss of estate	Rs.15,000/-	Rs.15,000/-	confirmed
7.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-	confirmed
	Total compensation awarded	Rs.21,49,522/-	Rs.22,35,127/-	Enhanced by 85,605/-

10. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.21,49,522/- awarded by the Tribunal is hereby enhanced to Rs.22,35,127/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The second respondent /Insurance Company is directed to deposit the enhanced award amount, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimants/appellants are permitted to withdraw their share of the award amount with proportionate interest and costs as per the apportionment made by the Tribunal, after adjusting the amount if any, already withdrawn. No costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

klt/sms
To

1.The Chief Judge, Small Causes Court,
(Motor Accident Claims Tribunal), Chennai.

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

+1cc to Mr.A.Shanmugaraj, Advocate SR.No.4831

+1cc to Mr.N.Vijayaraghavan, Advocate SR.No.4793

CMA.No.2858 of 2018

CNR(CO)
GMY(04/09/2019)