IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

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

C.M.A.No.240 of 2020
& C.M.P.No.1737 of 2020

Reliance General Ins. Co. Ltd.,
Legal Dept, RAIS Towers,
II Floor, No.2054, II Avenue,
Anna Nagar West,
Chennai - 600 040. ... Appellant/II Respondent

Vs

1.T.Gayathri
2.Malarkodi
3.D.Sambhantham ... Respondents 1 to 3/Petitioner 1 to 3

4.P.Ramesh ...IV Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 14.06.2019 made in M.C.O.P.No.133 of 2013 on the file of Motor Accidents Claims Tribunal, III Small Causes Court, Chennai.

For Appellant .. Ms.C.Bhuvanasundari
For Respondents.. Mr.K.Suryanarayanan for R1 to R3

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

This appeal has been preferred by the appellant only with respect to the quantum. Therefore, the other issues have not been gone into.

2.The date of accident was on 09.10.2012. the deceased was aged about 34 years working as Senior Lead Engineer Quality Control Management Grade IV in FL.Smidth Private Limited. The claimants are three in number. While claiming the income of the deceased at Rs.34,897/-, the total claim of Rs.1,20,00,000/- has been made. The Tribunal fixed the loss of income at

Rs.67,00,800/- and fixed the compensation payable at Rs.69,55,800/-.

3.Learned counsel appearing for the appellant submitted that the Tribunal committed an error in not deducting the transport charges which was paid and included in the salary of the deceased. The income, by deducting the aforesaid amount, would come to Rs.34,100/-. The Tribunal committed further error in adding 50% towards future prospects as against 40%. As per the Income Tax Act, the tax payable is Rs.45,913/- out of the total income of Rs.5,72,800/-By deducting 1/3rd amount towards the personal expenses of the deceased and adopting 16 multiplier, the loss of income would come to Rs.56,20,978/-. After adding Rs.40,000/- for loss of consortium, Rs.80,000/- for loss of love and affection, Rs.15,000/- each towards loss of estate and funeral expenses, the total amount payable would come to Rs.57,70,978/-.

4.Learned counsel appearing for the claimants/respondents 1 to 3 submitted that the Tribunal committed an error in not deducting the income tax payable while adopting 50% towards future prospects, no interference is required with respect to the total amount arrived at.

5.As submitted by the learned counsel for the appellant, the Tribunal committed two errors, one is with respect to the non-deduction of income tax payable and the other is adding 50% towards future prospects instead of 40%. Incidentally, the Tribunal has taken into consideration the income at Rs.34,900/- without deducting Rs.800/- which forms part of the salary paid towards transport charges. Once the deceased is no more, the aforesaid amount will have to be deducted. In such view of the matter, we are in agreement with the submission of the learned counsel for the appellant that the amount payable towards the loss of income would be Rs.56,90,978/-. With this, we are inclined to add Rs.40,000/- for loss of consortium, Rs.80,000/- for loss of love and affection, Rs.15,000/- for loss of estate and Rs.15,000/- for funeral expenses. Thus, a sum of Rs.57,70,978/- is arrived at, which we are rounding off to Rs57,71,000/-. The interest awarded by the Tribunal at 7.5% per annum stands confirmed. The amount now awarded by this Court shall be apportioned amongst the claimants as ordered by the Tribunal.

6.In view of the above, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

7.The appellant insurance company is directed to deposit the compensation awarded by this Court along with proportionate interest, less the amount if any already deposited, to the credit of M.C.O.P.No.133 of 2013 on the file of Motor Accidents Claims Tribunal, III Small Causes Court, Chennai within a period of six weeks from the date of receipt of a copy of the judgment.

8.We also direct the Tribunal to transfer the shares of the claimants by way of RTGS to their bank accounts within a period of three weeks from the date of deposit of the award amount. On such transfer, the claimants are entitled to withdraw the same.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
III Small Causes Court,
Chennai.

+1cc to Mr.K.Suryanarayanan, Advocate, S.R.No. 15577
+1cc to Mr.C.Bhuvanasundari, Advocate, S.R.No. 16671

C.M.A.No.240 of 2020

PVS(CO)
GN(15/12/2020)