IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.08.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1902 of 2015
and
M.P.No.1 of 2015

United India Insurance Co.Ltd.,
74/A, Salai Road,
Trichirappalli-18. .. Appellant

/versus/

1.Mohankumar

2.Ashokumar

3.Meena

4.Minor Buvaneswari,aged 12,
D/o Mayavan

5.Minor Vijayakumar, aged 7,
S/o Mayavan
respondents minors 4 and 5 rep.by
their guardian 1st respondent Mohankumar

6.Kasavan

7.Joseph Baskar ..Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 24.02.2015 made in M.C.O.P.No.139 of 2014 on the file of the Motor Accidents Claims Tribunal(Principal District Judge), Perambalur.

For Appellant	:Mr.D.Bhaskaran
For R1 to R5	:Mr.S.R.Varun Karthick
For R6	:Died
For R7	:Mr.P.Mani

J U D G M E N T

(The case has been heard through video conference)

Heard the learned counsel appearing for the appellant and the learned counsel appearing for respondents 1 to 5 and learned counsel appearing for the 7th respondent.

2.The learned counsel appearing for the appellant-Insurance Company would precisely point out the following error in the Tribunal award, which calls for interference by the High Court. The accident victim, who died at the age of 51 years was working as an Office Assistant in the District Munsif Court, Jayankondam, drawing monthly salary of Rs.18,778/-. There are six dependants. While arriving at the compensation, the Tribunal has applied the multiplier ''11'' for the entire salary without taking note of the date of Superannuation and without applying the split multiplier theory. Contrary to the Judgement of the Hon'ble Supreme Court, the Tribunal has added 30% more for future prospects instead of 15%. While there were only 6 dependants, 1/4th of the income ought to have been deducted towards personal expenditure as per the guidelines of the Sarala Verma case. Whereas in this case, the Tribunal has deducted only 1/5th.

3.The learned counsel appearing for the claimants would submit that the deceased was sole breadwinner of the family taking care of his five children and aged father. In the interest of justice, the Tribunal has considered that the deceased would have incurred only 1/5th of his total income for his personal expenditure. The counsel would also submit that the Tribunal has discussed about the prospects of getting promotion once the deceased completes his 10th standard and he was left with 8 years of service. In the light of the above fact, the Tribunal has awarded 30% towards future prospects and there is no error in it.

4.Records perused. The deceased being a Government Servant, due to retire in 8 years. Thereafter, he will be getting only pension which normally be half of the salary. Therefore, as pointed out by the learned counsel for the appellant, split multiply has to be applied for fixing loss of dependency. As far as future prospects, the Tribunal has wrongly applied 30%. At the time of accident, the deceased was about 52 years old. Therefore, the claimants are entitled only for 15% additional income under future prospects. Based on the age, the multiplier 11 is split into 8 and 3.

5.It is to be noted that for compensation under non-conventional heads as well as the compensation under loss of income, the Apex Court has standardised the formula to have a uniformity throughout the country. Therefore, beyond the prescribed limit, the Courts cannot exercise its discretion. If excess amount to be awarded, there must be a proper explanation and justification. As far as this case is concerned, this Court finds no justification or explanation to award in excess. More so, when four of the dependants are adult members and only two are minors, deduction of 1/4th income for personal expenditure is appropriate. To be noted that, the father of the deceased died pending disposal of the claim petition. Therefore, the award of the Tribunal is interfered and modified as under:

Loss of Dependency (Rs.18,778/- + 15% - 1/4th =16,196.00) (Rs.16,196/- x 12 x 8 multiplier=Rs.15,54,816.00) Rs.8,098/- x 12 x 3=Rs.2,91,528.00) (Rs.15,54,816.00 + Rs.2,91,528.00= Rs.18,46,344.00)	Rs.18,46,344.00
Loss of Love and Affection	Rs.75,000.00
Transport	Rs.10,000.00
Funeral Expenses	Rs.10,000.00
Loss of estate	Rs.10,000.00
Total	Rs.19,51,344.00

6.The Insurance company/appellant is directed to deposit the modified award amount with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The modified award amount shall be apportioned by the claimants equally. If the appellant/Insurance company has already deposited the modified award amount, it is permitted to withdraw the excess amount if any.

7.In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To:

The Motor Accident Claims Tribunal,
Principal District Judge, Perambalur.

Copy to:
The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.C.Jagadish, Advocate SR.27693(CB-12/02/2021)

C.M.A.No.1902 of 2015
and
M.P.No.1 of 2015

MG(CO)
CB(03/02/2021)