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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.2754 of 2015

1.Meghrunnisa

2.Syed Sadiq (minor)

3.Rahimunisa

Minor represented by natural guardian and next friend
the first appellant

...Appellants/Petitioners

Vs

1.G.Manohar

(R1 remained exparte before the tribunal his presence
may be dispensed with.)

2.United India Insurance Co. Limited,
R.O. Legal Department,
Third Party Cell,
Sillingi Building,
No.138, Greams Road,
Chennai-6.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment dated 02.01.2014 made in M.A.C.T.O.P.No.440 of 2011 on the file of the Motor Accident claims Tribunal, Chief Judge Court of Small Causes, Chennai.

For Appellant : M/s.A.Subbadra for
M/s.M.Malar

For Respondents : Mr.C.Paranthaman for R2

R1-exparte



J U D G M E N T

(The case has been heard through Video Conferencing)

Heard the learned counsel for the appellant and the learned counsel for the second respondent.

2. The appeal is filed for enhancement of compensation awarded by the Tribunal on the ground that the Tribunal has not properly computed the loss of income and future prospects.

3. It is the case of motor accident, in which one Ammer @ Syed Ameer aged about 39 years old died on 11.09.2010 due to the rash and negligent driving of the driver of the van bearing Registration No.TN-02-P2281, dashing against the two wheeler driven by the victim.

4. Before the Tribunal, the wife, minor son and mother of the deceased joined together and filed claim petition seeking a compensation of Rs.15,00,000/- on the premise that the deceased was earning a sum of Rs.10,000/- per month as a Real Estate Broker and he had a bright future prospects to earn more. Due to the sudden demise, they have lost his income, love and affection and consortium.

5. The Tribunal, after considering the submission, has awarded a sum of Rs.7,77,000/- as compensation.

6. In this appeal, it is contended by the learned counsel for the appellant that the fixation of monthly income at Rs.4,500/- notionally is very less and towards future prospects, the Tribunal has added only 30% contrary to the Constitution Bench decision in Pranay Sethi's case without taking into consideration the monthly income of the deceased as Rs.10,000/.

7. Learned counsel for the respondent/Insurance Company would submit that the application of principle of Pranay Sethi's case for an accident occurred in the year 2010 may not be proper and even if it is applied, there is no need to reconsider the notional monthly income of the deceased fixed by the Tribunal.

8. Heard the rival submissions and perused the records.

9. The date of accident is 11.09.2010. At that time, the deceased was hardly 39 years old as per the driving license marked as Ex.P8. Taking note of the fact that the Tribunal has fixed notional income as Rs.4,500/- and added only 30% towards future prospects and on considering the age of the deceased and the circumstances that he left his wife, child to maintain and 65 years old mother to take care, the notional income of the



deceased is fixed at Rs.5,000/- with 40% future prospects. Accordingly, on applying standardized formula provided by the Constitutional Bench in 2017 (2) TNMAG 609(SC) National Insurance Company Ltd., Vs. Pranay Sethi, the compensation is revised as under:

Compensation under Various Heads	Award passed by this Court
Loss of income (7000-2330=4670X12X15)	Rs.8,40,600/-
Loss of consortium for first appellant/claimant	Rs. 40,000/-
Loss of love and affection for claimants 2 and 3 (Rs.20,000 each)	Rs. 40,000/-
Loss of Estate	Rs. 15,000/-
Funeral Expenses	Rs. 15,000/-
Total	Rs.9,50,000/-

The compensation for the claimants/appellants enhanced from Rs.7,77,000/- to Rs.9,50,000/- with interest at the rate of 7.5% p.a. from the date of numbering the petition (31.01.2011) till the date of deposit. The interest for the delay period of 218 days in filing the Civil Miscellaneous Appeal is exempted. The respondent Insurance Company is directed to deposit the award amount within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants/appellants 1 and 3 are permitted to withdraw their share with proportionate interest as under:

Claimants	Apportionment of compensation
1 st Claimant	Rs.5,00,000/-
Claimant 2	Rs.3,00,000/-
Claimant 3	Rs.1,50,000/-

The 2nd claimant share with interest shall be invested in any of the nationalised Bank till he attains majority. The interest accrued shall be withdrawn once in 6 months by the Mother/Natural guardian, the first claimant to utilise for his welfare.



6. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No order as to costs.

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s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

The Motor Accident claims Tribunal,
Chief Judge Court of Small Causes,
Chennai.

Copy to
The Section Officer
VR Section
High Court, Madras 104.

+1 CC to M/s.M. Malar, Advocate sr 36808
+2 Ccs to Mr.G. Paranthaman, Advocate sr 36686.

CMA NO.2754 OF 2015

MP (CO)
SP (16/08/2021)