

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

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

C.M.A.No.1029 of 2018

M/s.IFFCO-TOKIO General Insurance Co. Ltd.,
No.128, Habibullah Road,
IV Floor, T.Nagar,
Chennai - 17. Appellant/2nd Respondent

Vs.

1.Shanthi

2.Akash Yuvaraj

3.Akshaya Poorani

4.A.Arbutham

5.K.Anbunathan 1 to 5 Respondent/Petitioners
[R2 & R3 are minors represented
by R1]

6.E.Sathishkumar 6th Respondent/1st Respondent

Prayer : Appeal filed under Section 173 of the Motor Vehicles
Act, 1988 against the judgment and decree dated 01.08.2017 made
in M.C.O.P.No.976 of 2015 on the file of the Motor Accidents
Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.K.Suryanarayanan
for R1 to R5

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

This appeal is filed only against the quantum. The deceased
died on 14.12.2014 aged about 31 years leaving behind wife,
children and parents. The compensation of Rs.25,00,000/- has

been sought for in the claim petition whereas the Tribunal awarded Rs.45,45,000/-.

2. The deceased was stated to be a Manager in a Private Company. P.W.3 has been examined to substantiate the income. However, P.W.3 has stated that there is no record to show his employment nor the income. The income has been claimed at Rs.17,500/- which has been taken as such by the Tribunal. The Tribunal added 50% towards the future prospects while adopting the multiplier '16'. One-fourth deduction has been made towards the personal expenses by taking into account the number of claimants. Towards the conventional heads such as loss of love and affection, loss of consortium, transportation, loss of expectation of life and funeral expenses, sums of Rs.6,00,000/-, Rs.1,00,000/-, Rs.5,000/-, Rs.50,000/- and Rs.10,000/- have been awarded respectively. Thus, in total, a sum of Rs.45,45,000/- has been fixed as just compensation by the Tribunal.

3. The learned counsel appearing for the appellant submitted that notwithstanding the absence of evidence, as stated by P.W.3, the Tribunal has taken the income as such. The amount added towards the future prospects is 50% instead of 40%. Towards the loss of love and affection, higher amount has been awarded. No amount ought to have been awarded towards the loss of expectation of life. Thus, the appeal will have to be allowed.

4. The learned counsel appearing for respondents 1 to 5/claimants submitted that, in total, a sum of Rs.45,45,000/- has been fixed as just compensation which was particularly in the light of the number of claimants involved. Thus, the appeal will have to be dismissed.

5. We find that the income arrived by the Tribunal is not correct in the absence of any evidence to show that the deceased was working with P.W.3 and particularly, in the light of no records available to show the deceased income and the employment. In such view of the matter, we are of the view that awarding of Rs.17,500/- as the income which was in the year 2014 for the deceased, who is not highly qualified, cannot be sustained. Thus, we are inclined to fix the monthly income at Rs.15,000/-.

6. Similarly, we are only adding 40% towards future prospects as per the judgment of Sarla Verma v. Delhi Transport Corporation and another, reported in (2009) 6 SCC 121, towards loss of love and affection a sum of Rs.1,60,000/- has been awarded as against Rs.6,00,000/-. Towards the conventional heads such as loss of consortium, transportation and funeral expenses, we are inclined to award Rs.40,000/-, Rs.10,000/-,

Rs.15,000/- respectively as against the amounts awarded by the Tribunal at Rs.1,00,000/-, Rs.5,000 and Rs.10,000/- respectively. Towards the loss of estate, we are inclined to award Rs.15,000/- as against no amount has been awarded by the Tribunal. The amount awarded towards the loss of expectation of life stands deleted as the same is covered under the loss of earning. Thus, the total compensation arrived is as under:-

Loss of Dependency : Rs. 30,24,000/-
(Rs.15,000 + 40% =
Rs.21,000/- x 12 x 16 x 3/4)

Loss of consortium : Rs. 40,000/-

Loss of love and affection: Rs. 1,60,000/-

Transportation : Rs. 10,000/-

Loss of Estate : Rs. 15,000/-

Funeral Expenses : Rs. 15,000/-

Total : Rs. 32,64,000/-

7. Thus, a sum of Rs.32,64,000/- has been arrived as compensation with interest at 7.5% from the date of the petition till the date of realization. The reduced compensation amount shall be apportioned amongst the claimants in the same ratio as ordered by the Tribunal.

8. The appellant/Insurance Company is directed to deposit the compensation awarded by this Court, less the amount, if any, already deposited to the credit of M.C.O.P.No.976 of 2015 on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai within a period of six weeks from the date of receipt of a copy of the judgment.

9. We also direct the Tribunal to transfer the respective shares of the award amount by way of RTGS to the bank accounts of claimants 1,4 and 5 within a period of three weeks from the date of deposit of the award amount. On such transfer, they are entitled to withdraw the same. Insofar as the shares of the minor claimants 2 and 3 are concerned, the Tribunal is directed to deposit the same in any one of the Nationalized Banks under reinvestment scheme till they attain majority. The mother of the minor claimants is entitled to withdraw the interest accrued on the minors' deposit once in three months directly from the Bank.

10. The Civil Miscellaneous Appeal stands allowed in part.
No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

ssm

To

1.The V Judge,
The Motor Accidents Claims Tribunal,
V Court of Small Causes,
Chennai.

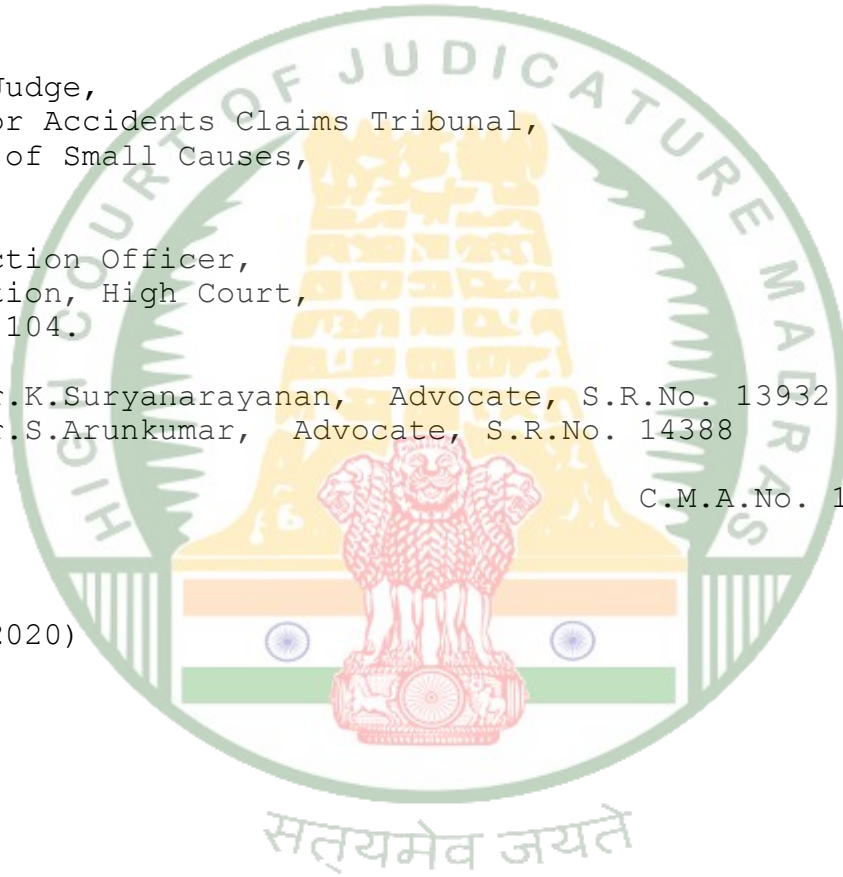
2. The Section Officer,
VR Section, High Court,
Madras 104.

+1cc to Mr.K.Suryanarayanan, Advocate, S.R.No. 13932

+1cc to Mr.S.Arunkumar, Advocate, S.R.No. 14388

C.M.A.No. 1029 of 2018

SSD (CO)
GN (25/08/2020)



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