IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.2404 of 2016

1. Durai

2. D.Malar

3. Minor.D.Praveen
S/o.A.Durai,
Minor 3rd appellant,
Represented by Next
Friend/father first appellant
A.Durai. ...Appellant/Claimant

/versus/

1. M.Indiramani

2. IFFCO - TOKIO General Insruance Co., Ltd.,
LIC Colony, Vasantham Road,
Salem - 600 004. ...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Judgement and Decree dated 01.12.2015 and made in M.C.O.P.No.1664 of 2013 on the file of Motor Accident Claims Tribunal (Special District Court Salem) and praying to enhance the amount of compensation.

For Appellant : Mr.P.Jagadeesan

For Respondents : Mr.Saraswathi for
Mr.C.R.Krishnamoorthy
for R2.
R1 - Exparte

J U D G M E N T

(The case has been heard through video conference)

Heard the learned counsel for the appellant and the respondent.

2. The appeal is filed by the claimant being not satisfied with the award passed by the Tribunal. The claimants are the parents and brother of the deceased Karthikeyan, who died in the Motor Vehicle Accident on 12.09.2013, when hit by the omni bus

bearing Reg.No.TN 30 AR 3669. After considering the evidence, the Tribunal has fixed the negligence on the part of the omni bus driver, insured under the second respondent/Insurance Company and directed the Insurance Company to pay a sum of Rs.9,59,000/- with 7.5% interest from the date of filing the petition till the date of realisation. The tribunal has fixed the notional income of deceased as Rs.8,000/-, taking into account that he was a student of B.Arch degree course.

3. The learned counsel of the appellant would submit that the computation of the loss of income by the Tribunal is very less. The Tribunal should have notionally taken the basic income of the deceased at Rs.12,000/- per month and ought to have added 50% to the future prospects.

4. Per contra, the learned counsel appearing for the Insurance Company would submit that the deceased was 18 years old Bachelor. He was doing II-year B.Arch Degree course. The Tribunal, taking note of the age and the status of the deceased, has rightly fixed loss of income and applied multiplier 18. Hence, there is no requirement for interfering with the Tribunal award.

5. The accident occurred on 12.09.2013. The Tribunal has passed the award on first December of 2015, based on the Judgements of the Hon'ble Supreme Court, regarding computation of compensation for deceased Bachelor, the Learned Counsel would submit that the Hon'ble Supreme Court has asserted that even victim who are temporary/daily wages are entitled for future prospects based on their age. Accordingly, non salaried person below 40 years is entitled for 40% Future Prospects. In this case, taking the basic income as Rs.8,000/- of the deceased, as per Sarala Verma Vs. Delhi Transport Corporation, the multiplier 18 is adopted and by adding 40% towards future prospects, the loss of income is arrived as (Rs.8,000 + 3200) X 18 X 12. Since, the deceased died as a bachelor, $1/2^{th}$ is deducted towards his personal expenditure. This Court, therefore, following the standard formula enunciated by the Hon'ble Supreme Court, this Court modify the award of the Tribunal as below:-

Loss of Income during the treatment period	Rs.12,09,600/-
Loss of Consortium for Claimant Nos.1 & 2	(Rs.40,000 x 2) = Rs.80,000/-
Love and affection for Claimant No.3	Rs.15,000/-
Funeral Expenses	Rs.15,000/-
Loss of Estate	Rs.15,000/-

Loss of Income during the treatment period	Rs.12,09,600/-
Total	Rs.13,34,600/-

6. Accordingly, the award passed by the Tribunal is enhanced from Rs.9,59,000/- to Rs.13,34,600/-. The 2nd respondent/Insurance Company is directed to deposit the award amount with 7.5% interest, less the amount already deposited if any, within a period of 12 weeks from the date of receipt of a copy of this order. The award amount shall be apportioned between the claimants equally. The claimant Nos.1 & 2 are permitted to withdraw their share of compensation with interest and costs. The share of the minor/claimant No.3, shall be invested in Fixed Deposit in any of the Nationalised Bank. The interest accrued shall be withdrawn by the first claimant every 6 months and be utilized for the welfare of the minor Child.

7. This Civil Miscellaneous Appeal is partly allowed. No order as to costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

kmm

To:-

1. The Motor Accident Claims Tribunal,
   Special District Court, Salem.

2. The Section Officer,
   V.R.Section, High Court,
   Madras.

+1cc to Mr.P.Jagadeesan, Advocate, S.R.No. 34470

C.M.A.No.2404 of 2016

SVI(CO)
GN(10/05/2021)