IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.18.09.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.4 of 2013 &
M.P.No.1 of 2013

United India Insurance Co. Ltd.,
D.O.II, 1st Floor,
Peramanur Main Road,
Salem – 636 007. ... Appellant/2nd Respondents

vs.

1.Valarmathi
2.Sivakumar
3.Elavarasi ... Respondents 1 to 3/Petitioners

4.Munusamy ...4th Respondent/1st Respondent
(set exparte before MACT. Notice may be dispense with)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 27.03.2012 made in MCOP.No.1285 of 2011 on the file of the MACT (ADJ & Spl. Judge, EC Act) at Salem.

For Appellant : Mrs.I.Malar
For Respondents : No appearance for R1 & R2
R3 – No such address
R4 – Exparte

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This Appeal has been filed by the Insurance company challenging the award dated 27.03.2012 passed by the Motor Accident Claims Tribunal (Additional District Judge and Special Judge, EC Act, Salem) in MCOP.No.1285 of 2011.

2. A minor boy by name S.Gowthaman, aged 16 years, XIth std student studying in Vethavikas Higher Secondary School near Salem died on 19.05.2011 as a result of an accident caused by a vehicle owned by the fourth respondent and insured with the Appellant. The respondents 1 and 3 who are the legal heirs of the deceased preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the death of S.Gowthaman.

3. The Motor Accident Claims Tribunal under the impugned award directed the Appellant as well as the fourth respondent jointly and severally to pay the respondents 1 to 3/claimants a compensation of Rs.4,52,000/- together with interest from the date of claim till the date of deposit and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Loss of income	4,32,000/- (3000 - 1/3 = 2000 x 12 x 18)
Loss of love and affection	15,000/-
Funeral expenses	5,000/-
Total	4,52,000/-

4. Heard Mrs.I.Malar, learned counsel for the Appellant. Despite service of notice on the side of the first and second respondents, there is no representation on their side.

5. The Appellant Insurance company has challenged the impugned award only on the ground that the quantum of compensation awarded by the Tribunal under the impugned award is excessive. According to them, the fixation of notional monthly income of the deceased at Rs.3,000/- is on the higher side and the Tribunal ought to have applied 16 multiplier by considering the age of the mother of the deceased rather than the age of the deceased. According to them, the Tribunal has erroneously taken into consideration the age of the deceased and has adopted 18 multiplier. According to them, the Tribunal has erroneously deducted 1/3rd towards the personal expenses of the deceased instead of 50%, since the deceased was a bachelor at the time of the accident.

6. The accident happened in the year 2011. The deceased was a student aged 16 years studying XIth standard in Vethavikas Higher Secondary School near Salem at the time of the accident.

7. The Hon'ble Supreme Court in the case of Syed Sadiq vs. United India Insurance Company Limited reported in (2014) 2 SCC 735 has fixed the notional monthly income of an accident victim who was a vegetable vendor at Rs.6,500/- for an accident which happened in the year 2008. Since in the case on hand, the accident having taken place in the year 2011, the assessment of notional monthly income of the deceased at Rs.3,000/- by the

Tribunal cannot be considered to be excessive. Therefore, the first contention raised by the Appellant is rejected by this Court.

8. Insofar as the second respondent raised by the Appellant that the Tribunal has erroneously adopted 18 multiplier instead of 16 multiplier by taking into consideration the age of the mother of the deceased is concerned, the said issue is now well settled by the Hon'ble Supreme Court in the case of Sarla Verma vs. Delhi Transport Corporation reported in 2009 (2) TNMAC 1 SC, wherein the Hon'ble Supreme Court held that the age of the deceased is the criteria for fixing the correct multiplier. Therefore, the second contention also fails as the Tribunal has rightly adopted 18 multiplier.

9. The Tribunal has erroneously deducted 1/3rd towards the personal expenses of the deceased who was a bachelor, at the time of the accident instead of 50%. If the notional monthly income of the deceased was fixed based on Syed Sadiq's case referred to supra, the notional monthly income of the deceased would have been much higher i.e., not less than Rs.6,500/- per month. If the monthly income was enhanced, the overall compensation awarded by the Tribunal under the impugned award cannot be considered to be excessive as alleged by the Appellant.

10. The Tribunal has awarded a compensation of Rs.15,000/- towards loss of love and affection, Rs.5,000/- towards funeral expenses and has also failed to award any compensation towards loss of estate. If the correct compensation was awarded under those heads also, the total compensation payable to the respondents 1 to 3/claimants would have been much higher than what was assessed by the Tribunal under the impugned award. Since there is no appeal filed by the claimants seeking for enhancement , the said issue is not being considered by this Court.

11. For the foregoing reasons, the contention raised by the Appellant that the quantum of compensation awarded by the Tribunal is excessive is rejected by this Court.

Conclusion:

12. In the result, this Appeal is dismissed. However, the rate of interest fixed by the Tribunal at 7.5% per annum is confirmed. The Appellant as well as the fourth respondent are jointly and severally directed to deposit the compensation awarded by the Tribunal along with interest from the date of claim till the date of deposit and costs after deducting the amount already deposited if any to the credit of MCOP.No.1285 of 2011 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal

is directed to transfer the respective shares of the award amount along with accrued interest lying to the credit of MCOP.No.1285 of 2011 to the bank account of the respective respondents 1 to 3/claimants through RTGS as per the ratio apportioned by the Tribunal within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

nl

To

The Motor Accidents Claims Tribunal,
Principal District Judge,
Salem.

Copy To

The Section Officer,
VR Section, High Court,
Chennai.

C.M.A.No.4 of 2013

GJ(CO)
GN(03/05/2021)