IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.850 2013

1. Jasmine Titus,

2. Jane Elise Susan,

3. Johannah Jessi Gifta ..Appellants/Petitioners
(Cause title accepted. vide order of Court dt.23.11.2012 made in M.P. No.2/2012 in C.M.A. Sr.No.19002/12)

Versus

1.Sangili

2.M/s. Rajalingam Transport,
Office at 3-A/4, Maris Avenue,
CollectorOffice Road, Trichy.

3. Oriental Insurance Company Ltd.,
UIL Building, 4th Floor,
No.8, Esplanad, Chennai - 600 108.

4. A. Kurumban,

5. Royal Sundaram Alliance Insurance
Company Ltd., Madurai. ..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed against the order and decree dated 30.07.2010 made in M.C.O.P.No.592 of 2008 on the file of the Motor Accident Claims Tribunal, (Fast Track Court No.III), Additional District Judge, Dharapuram.

For Appellants	:	Mr.Ma.P. Thangavel
For Respondent-3	:	Mr.S. Jayaram
For Respondent-5	:	Mr. E. Rajadurai for M/s.Vijayaraghavan
For Respondents 1,2 & 4	:	No appearance

J U D G M E N T

The claimants before the Tribunal have preferred this appeal against the Judgment and order made in M.C.O.P. No.592 of 2008 dated 30.07.2010 on the file of the Motor Accident Claims Tribunal, (Fast Track Court No.III.) Additional District Judge, Dharapuram.

2. The appellants who are legal heirs of the deceased, have filed claim petition seeking for compensation of Rs.70,00,000/- under the Motor Vehicle Act, on account of death of deceased Kadappaichamy @ Titus, who sustained fatal injury and died on the spot in the accident occurred on 29.04.2008. At the time of the accident, deceased Kadappaichamy @ Titus, was aged 47 years old and he was working as the General Secretary of India in Church Growth Mission and earning Rs.30,000/- per month being scholar Post graduate in M.A. (Sociology), M.A. (psychology), M.A. (History), M.Phill, B.D. (Bachelor of Divinity).

3. During the trial before the tribunal, the appellants have submitted income tax return of the deceased without seal of the Income Tax Department as a proof of the income of the deceased. Hence, the tribunal has rejected the same and determined the notional income of the deceased at Rs.6,000/- per month and deducting 1/3rd towards personal expenses of the deceased, the tribunal calculated the loss of income at Rs.48,000/- p.a. and taking the age of the deceased as 47 years, multiplier of 13 has been adopted and awarded compensation of Rs.6,24,000/- (Rs.48,000/- X 13) towards loss of income. In addition to this, on various other heads, the appellants were granted the compensation of Rs.6,50,000/- as per the details given below inclusive of loss of income:

SL. No.	Particulars	Amount (in Rs.)
1	Loss of Income	6,24,000.00
2	Funeral Expenses	6,000.00
3	Loss of love and affection	10,000.00
4	Loss of consortium for 1st appellant	10,000.00
Total Amount		6,50,000.00

4. Aggrieved by the said award of the Tribunal, the present appeal has been filed by the appellants seeking for enhancement of compensation considering the income of the deceased.

5. The learned counsel for the appellants would contend that the compensation awarded by the Tribunal was neither just nor reasonable. The tribunal has fixed notional income of the deceased at Rs.6,000/- rejecting the proof of income tax return for not having seal of the Income Tax Department even though his yearly income was shown at Rs.1,52,340/- in the Income Tax Department thereon. Further it was also submitted that Income tax return of the deceased for the Assessment year 2006-2007 has been produced before this Court for kind perusal

to arrive at the income of the deceased and the same was received from the Income Tax department under R.T.I. Act to prove the income of the deceased at Rs.1,52,340/- per annum as his salary. It has further stated that as the deceased was the salaried person getting permanent income from the organisation, the future prospects shall be added in the compensation. In support of his contention, he has placed reliance on the Judgment in the case "Shashikala & Others Vs. Gangalakshmamma & another, reported in 2015 (1) TN MAC 785 (SC) for consideration of this Court.

6. The learned counsel for the respondents 3 & 5 have not objected against the above contention submitted by the learned counsel for the appellants.

7. Heard, the learned counsel for the petitioner and the learned counsel for the respondents 3 & 5. Despite name printed and notice served on the Respondents 1, 2 and 4, there is no representation on behalf of them.

8. The income tax return of the deceased has been produced along with letter of the Income Tax Officer in the form of Additional typed set before this Court. On perusal of the Income tax return in Form No.2D, SARAL, which was filed on 31.07.2008 bearing acknowledgement no.1111008649 on the file Income Tax Officer, Salary Ward I(1) as a proof of income of the deceased, it shows his salary income as per Form No.16 at Rs.1,52,340/- per annum. Taking into consideration the aforesaid proof, this Court has taken monthly income of the deceased at Rs.12,695/- and after deducting 1/3rd of Rs.4,232/- towards personal expenses of the deceased, balance amount of Rs.8,463/- is to be considered as monthly income of the deceased. Taking into consideration of the decision of the aforesaid judgment, future prospects @25% is to be added thereon which comes for Rs.2,116/- as the deceased was an salaried employee in an organisation thereby the loss of income is arrived at Rs.10,579/- rounded of Rs.10,580/- per month. Thus, loss of Income per annum is arrived at Rs.1,26,690/- and adopting multiplier of 13 considering the age of the deceased was at 47 years at the time of the accident, this Court is arrived at the loss of income of the deceased at Rs.16,50,480/- rounded as Rs.16,50,500/- considering the above aspects. Further, the compensation under the other heads inclusive loss of income has been awarded as follows:

SL. No.	Particulars	Amount (in Rs.)
1	Loss of income	16,50,500.00
2	Funeral,Transport & Damages to Clothes and articles expenses	6000.00

SL. No.	Particulars	Amount (in Rs.)
3	Loss of love and affection and Pain, shock and Sufferings	10000.00
4	Loss of consortium for the 1st appellant/wife of the deceased	10,000.00
Total Amount		16,76,500.00

9.Thus, the compensation awarded by the Tribunal has been enhanced by Rs.10,26,500/- from Rs.6,50,000/- to Rs.16,76,500/- with interest @ 7.5% per annum from the date of petition till the date of realization.

10.The Insurance Company/3rd respondent is directed to deposit the award amount within a period of eight weeks from the date of receipt of copy of this order. The 1st appellant/wife of the deceased is entitled to withdraw a sum of Rs.10,00,000/- and respondents 2 & 3/two daughters of the deceased are entitled a sum of Rs.3,38,250/- each. The appellants can withdraw their respective shares after filing a formal petition before the Tribunal. The appellants are directed to pay the deficit Court fee if any immediately.

11. In the result, the appeal is partly allowed. Accordingly, the impugned award passed by the Tribunal is modified. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lbm

To
1.The Additional District Judge,
Motor Accident Claims Tribunal,
Fast Track Court III, Dharapuram.

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

+2cc to Mr.S.Jeyaram, Advocate, S.R.No. 5199
+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No. 5684
+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No. 6350

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SSD(CO)
GN(20/04/2021)