IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2020

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

C.M.A.No.2141 of 2018
and
C.M.P.No.16727 of 2018

National Insurance Co. Ltd.,
Rep. By its Branch Manager,
No.63, Rasi Plaza,
Mela Pradhakshan Road,
Karur District. .. Appellant /2nd Respondent

vs.

1.Thilagavathi
2.Minor.Rajpriyan
3.Minor.Sarumathi
4.Minor.Hariharan
5.Kaliyaperumal
6.Sakunthala ..Respondents 1 to 6/Petitioners
7.Samiyappan ..7th Respondent/1st Respondent

(minor respondents 2 to 4 rep.
by their mother/R1)

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 24.02.2016 made in M.C.O.P.No.296 of 2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mannargudi.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.S.P.Yuvaraj for R1 to R6
R7 - Notice served

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

This appeal is preferred only with respect to the quantum. Therefore, unnecessary facts are not gone into.

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2.Respondents 1 to 6, who are the claimants in MCOP No.246 of 2019 made a claim for Rs.45,12,000/-, restricting it to Rs.30 lakhs with the income mentioned at Rs.15,000/- per month. Insofar as the occupation of the deceased is concerned, it was shown as self employment, working as Fitter. The Tribunal fixed the income, by placing reliance upon Ex.P9, which is a salary certificate, at Rs.12,000/-. It further added 50% towards future prospects and made deduction of 1/5 towards the personal expenses of the deceased. After adding conventional heads, a sum of Rs.28,47,000/- has been awarded.

3.Learned counsel appearing for the appellant submitted that fixation of Rs.12,000/- per month is contrary to the claim petition itself. The Tribunal ought not to have added 50% towards future prospects. Though the multiplier adopted is also wrong, instead of 1/4th deduction, 1/5th deduction has been made.

4.Learned counsel appearing for respondents 1 to 6 submitted that final compensation is only Rs.28,47,000/- for six claimants. Therefore, this Court need not interfere with the award.

5.The proceedings are summary in nature and there is some evidence to show the income of Rs.12,000/-. In such view of the matter, we are not inclined to interfere with the income arrived at by the Tribunal. After all, the deceased has been maintaining and taking care of all the claimants and therefore, one can reasonably infer that he would have earned Rs.12,000/- per month. However, the Tribunal has committed wrong in adding 50% towards future prospects instead of 40% in tune with the judgment of the Apex Court in National Insurance Co. Ltd vs Pranay Sethi and others (2017 (2) TN MAC 271). A further mistake has been committed in deducting 1/5 amount towards the personal expenses instead of 1/4. Accordingly, the loss of income has been arrived at Rs.22,68,000/- (Rs.12,000/- + Rs.4,800/- (40% of Rs.12,000/-) = Rs.16,800/- (- 1/4 of Rs.16,800/-) = Rs.12,600/- x 12 x 15 = Rs.22,68,000/-). After adding a sum of Rs.1,60,000/- towards loss of love and affection, Rs.40,000/- towards loss of consortium, Rs.10,000/- for transport charges, Rs.15,000/- for loss of estate and Rs.15,000/- towards funeral expenses. Thus, the total compensation is arrived at Rs.25,08,000/-, which is rounded off to Rs.25,10,000/-. The interest awarded by the Tribunal at 7.5% per annum stands confirmed.

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6.In the result, the Civil Miscellaneous Appeal is allowed in part. No costs. Consequently, connected miscellaneous petition is closed.

7.The appellant /Insurance Company is directed to deposit the compensation amount awarded by this Court along with proportionate interest, less the amount if any already deposited, to the credit of M.C.O.P.No.296 of 2012 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Mannargudi, within a period of eight weeks from the date of receipt of a copy of the judgment.

8.We also direct the Tribunal to transfer the entire amount deposited by way of RTGS to the bank accounts of claimants 1, 5 and 6/respondents 1, 5 and 6 within a period of three weeks from the date of deposit of the award amount. On such deposit, the said claimants are entitled to withdraw the same. Insofar as the shares of minor claimants 2 to 4 are concerned, the same shall be invested in any one of the Nationalised Banks till they attain majority. The first claimant is permitted to withdraw the interest accrued on the minors' deposits once in three months directly from the Bank.

Sd/-
Assistant Registrar(CO-MDU)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
Subordinate Judge,
Mannargudi.

+1cc to M/s.S.Arunkumar, Advocate SR.2310
+1cc to M/s.S.P.Yuaraj, Advocate SR.1793

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KJ(CO)
CB(16/06/2020)

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