IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1790 of 2020
and
CMP.No.13164 of 2020

The Divisional Manager,
M/s. IFFCO-TOKIO General
Insurance Company Limited,
Puducheri. ...Appellant/II Respondent

Vs.

1. B.Sohan Bai,
W/o. Banraj Jain

2. B.Sampath Raj Jain,
S/o. Banraj Jain

Both residing at
No.70, Muthumariamman Koil Street,
Puducheri - 605 001.

3. B. Ghyanchand Jain
S/o. Banraj Jain,
residing at No.78/96,
Raghavan Street,
Perambur,
Chennai-600 011.

4. B.Ashok Kumar,
S/o. Banraj Jain,
residing at No.155,
Habibullah Road,
T.Nagar, Chennai-600 017. ...I-IV Respondents/
I-IV Claimants

5. Giridharan,
No.3/1, Jagannathan Street,
Agaram,
Chennai-600 082. ...V Respondent/I Respondent

PRAYER:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act against the judgment and decree dated 14.02.2020 made in MCOP No.318 of 2017 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge), Puducheri.

For Appellant : Mr. J.Michael Visuvasam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance company.

2. Mr.J.Michael Visuvasam, learned counsel appearing for appellant would submit that the deceased was aged about 85 years at the time of accident, and the monthly income was fixed at Rs.26,213/- based on the income tax returns filed by the deceased. According to the learned counsel, the income tax returns were filed for the financial year 2012-2013 to 2015-2016, wheres for the financial year ending upto March 2016. However, the accident has been taken place on 11.10.2016 and the deceased died on 20.10.2016. For the financial year 2015-2016, there is no income tax was filed. However, the Tribunal has considered the income tax returns filed for the financial year 2014-2015 and based on that, calculated the monthly income, which is not acceptable.

3. From the perusal of records, it could be seen that the deceased was working as a part time accountant in a private finance company, and also arranging loan for the customers. He has filed the income tax regularly from the year 2011-2012 to 2015-2016 till his death. Whereas the annual income was gradually increased from Rs.2,50,111/- to Rs.4,56,064/-. Considering the same, the Tribunal has rightly fixed the monthly income of deceased based on the income tax returns as Rs.26,213/- and after deducting 1/3rd towards personal expenses, arrived the monthly income of deceased as Rs.19,660/-. After applying the multiplier of 5, the Tribunal has rightly awarded a sum of Rs.11,79,600/- towards loss of dependency. That apart, the Tribunal has also rightly awarded a sum of Rs.40,000/- towards loss of consortium to the wife, a sum of Rs.2,81,819/- towards medical expenses, and a sum of Rs.15,000/- towards funeral expenses. Hence, I find no illegality in it and I find no merit in this appeal.

4. In the result, the Civil Miscellaneous Appeal filed by the Insurance Company is dismissed. The award of the Tribunal is upheld. The entire compensation as calculated by the Tribunal, shall be deposited by the appellant/Insurance Company after

deducting the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, it is for the claimants to move a petition before the Tribunal for withdrawing the said amount as apportioned by the Tribunal. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

rpp

To

The Motor Accidents Claims Tribunal,
II Additional District Judge,
Puducheri.

+1cc to M/s.J.Michael Visuvasam, Advocate, S.R.No.38901

C.M.A.No.1790 of 2020

KV(CO)
RGA(03/09/2021)