IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3250 of 2019
and
C.M.P.No.18641 of 2019

United India Insurance Co.Ltd,
Motor Third Party Claims Hub,
No.134, Greams Road,
T.P.Cell, Ivth Floor,
Chennai - 6. ... Appellant/2nd Respondent

Vs.

1.P.Parvathy

2.J.Asirvatham

3.A.Paripooranam

4.A.Dayamani ...Respondents 1 to 4/Claimants 1 to 4

5.N.G.Prabakar ... 5th Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decreetal order dated 10.08.2018 passed in M.C.O.P.No.3842 of 2015 by the Motor Accident Claims Tribunal, (III Small Causes), Chennai.

For Appellant : Mr.P.Sankaranarayanan

For Respondents : Mr.B.Deepak Narayanan for R5
R1 to R4- No appearance

JUDGMENT

Though notice has been served on the contesting Respondent Nos.1 to 4 who are the claimants before the Tribunal. There is no representation on their behalf either in person or through any counsel.

2.The appellant/Insurance Company has questioned the quantum of compensation awarded in the impugned judgment and decree dated 10.08.2018 in M.C.O.P.No.3842 of 2018 passed by the (III Small causes court). By the impugned judgment and decree, the Tribunal has awarded a sum of Rs.8,62,850/- as detailed below:-

Loss of Dependency	Rs.7,07,850/-
Loss of Love and affection	Rs.1,30,000/-
Medical expenses	Rs. 10,000/-
Funeral Expenses	Rs. 15,000/-
Total	Rs.8,62,850/-

3.The Insurance Company is aggrieved by the compensation awarded by the Tribunal. The Tribunal adopted multiplier of 11 by considering the age of the deceased as 55 years in Ex.P2 and P3. They are merely the post-mortem report and the death certificate of the deceased.

4.It is submitted that the first claimant namely the 1st respondent herein deposed evidence on behalf of the claimants. She is the daughter of the deceased and was aged about 42 years. It is therefore submitted that it is highly impropable that the age of the deceased was 55 years by placing reliance on Ex.P2 and P3 for applying 11 multiplier.

5.It is submitted that the age gap between the deceased mother and the daughter cannot be 13 years. It is therefore submitted that the Tribunal ought to have considered the correct age before awarding the compensation by applying the correct multiplier. It is submitted that the deceased would have been atleast 60 years at the time of the accidnet. It is submitted tha the correct multiplier as per the decision of the Hon'ble Supreme Court would have been 7 if the age of the deceased is taken as 60 years.

6.Heard the learned counsel for the appellant and the respondent. I have also perused the exhibits that were marked before the Tribunal.

7.In my view, it would be fair to conclude that the deceased may have been aged about 58 years after considering the age gap of 18 years between them in absence of any direct evidence or any radiology report. It is also to be noticed that the deceased was said to be working as a domestic help. In the claim petition it is stated that the deceased was earning a monthly income of Rs.8,000/-. The monthly income of Rs.8,000/- at the time of accident for a domestic help in the year 2013 appears to be reasonable. The correct multiplier to be adopted considering the age of the deceased as 58 wil be 9. The Tribunal has not awarded any amount towards future prospect. Therefore, the compensation awarded by the Tribunal is re-computed as follows:-

Loss of Dependency Monthly Income of the deceased — Rs. 8,000 Future Prospect at25% — Rs. 2,000 ------------- Rs.10,000 Less 1/3 towards personal expenses of the deceased — 3,333 ------------- Monthly Contribution to the family — Rs. 6,667 Annual Contribution to the family (6667x12) — Rs. 80,004 80,004X9 multiplier — Rs.7,20,036	Rs.7,20,036/-
Loss of Love and affection	Rs.1,30,000/-
Medical expenses	Rs. 10,000/-
Funeral Expenses	Rs. 15,000/-
Total	Rs.8,75,036/-

8.The appellant/Insurance Company is directed to deposit the enhanced amount of compensation of Rs.8,75,036/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

9.On such deposit being made by the appellant/Insurance Company, the 1st to 4th respondents/1st to 4th claimants are permitted to withdraw the same together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

10.This Civil Miscellaneous Appeal stands disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(I)

// True Copy //

Sub Assistant Registrar

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To:

1.The Motor Accident Claims Tribunal,
(III Small Causes), Chennai.

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

+1cc to Mr.P.Sankaranarayanan, Advocate SR.No.24256

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RSV(CO)
CB(07/03/2022)