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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.NO.2645 OF 2017

1.Lalitha
2.Minor Kanagaraj
3.Minor Kalaiselvan
4.Subbu Udayar (died)
5.Chinnamma (died)
6.Saroja

...Appellants/Petitioners

Vs

1.Dhanalakshmi Srinivasan College,
No.274C, Thuraiyur Road,
Perambalur 621 212.
2.M/s.The New India Assurance Company Ltd.,
B.O.720703, at 99/C-3, 1st Floor,
Opp. To New Bus Stand, Perambalur,
rep. by its Branch Manager.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 13.06.2017 made in M.C.O.P.No.546 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court Judge, Perambalur.

For Appellants : M/s.Lalitha

For Respondents : No Appearance for R1
Mr.G.Udaya Sankar for R2

JUDGMENT

Heard the learned counsel for the appellants and the learned counsel for the second respondent.

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2.The appeal is filed by the claimants seeking enhancement of compensation on the ground that the Tribunal, while awarding compensation for the fatal death of Kasinathan, upon whom they were depending, had not considered the future prospects of the deceased and the number of dependents on him.

3.The brief facts of the case is that on 28.02.2013 at about 05.30 p.m., when the decased Kasinathan was riding his TVS XL bearing Registration No.TN20 AW 5668 was hit by the bus owned by Dhanalakshmi Srinivasa College bearing Registration No.TN46 J 8470 insured under the New India Insurance Company. At the time of accident, the deceased Kasinathan was earning Rs.15,000/- per month as a self employed agriculturist and Tractor owner.

4.The claim petition was resisted by the Insurance Company on the ground that the deceased had no valid driving license on the date of accident. It was the negligence of the deceased which caused the accident. Without observing the traffic Rule, the deceased turned his bike without giving signal to the oncoming vehicle.

5.The Tribunal, after considering the evidence placed before it, had fixed the notional income of the deceased as Rs.6000/- p.m. and after deducting 1/3 for his personal expenditure, awarded a sum of Rs.6,24,000/- for the loss of income applying the multiplier '13'. Thereafter, the Tribunal had awarded Rs.1,00,000/- for loss of love and affection for the minor children, Rs.50,000/- for loss of consortium to the wife, Rs.25,000/- for funeral expenses and transport and Rs.5,000/- towards loss of estate. Thus, a total sum of Rs.8,04,000/- was awarded as compensation payable by the Insurance Company indemnifying the owner of the offending vehicle.

6.In the appeal, for enhancement of compensation, it is contended that notional fixation of income of the deceased as Rs.6,000/- is very less and even for the said amount, future prospects of the deceased not been taken into account.

7.From the material evidence, this Court finds that at the time of accident, the deceased was around 47 years old. No material evidence placed before the Tribunal to prove the income of the deceased. Therefore, the Tribunal has rightly fixed the notional income of the deceased as Rs.6000/- and has arrived at

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compensation by applying the multiplier. Only omission in this case is that not considering the future prospects. Being an Agriculturist, above the age of 40 years, as per Pranay Sethy's case, 25% of his notional income has to be added towards future prospects. Adding 25% more towards future prospects, loss of income is computed as 7,500X2/3X12X13. Accordingly, the award of the Tribunal is enhanced as below:

Compensation under Various Heads	Award passed by this Court
Loss of income 7,500X2/3X12X13	Rs.7,80,000/-
Loss of consortium for the first claimant	Rs. 40,000/-
Loss of love and affection for minor claimants 2 and 3 (Rs.20,000 each)	Rs. 40,000/-
Loss of Estate	Rs. 15,000/-
Funeral Expenses	Rs. 15,000/-
Total	Rs.8,90,000/-

8.The compensation payable to the claimants is enhanced from Rs.8,04,000/- to Rs.8,90,000/-. The same shall be paid by the Insurance Company with 7.5% interest from the date of petition till the date of deposit. The said amount shall be equally apportioned by the claimants 1 to 3 and the 6th appellant as below:

Claimants	Apportionment of compensation
1st Claimant/appellant (wife)	Rs.4,40,000/-
2nd and 3rd Claimants /2nd and 3rd Appellants (Minor children	Rs.2,00,000/- (each)
6th claimant/6th appellant (sister)	Rs. 50,000/-

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9.Learned counsel appearing for the Insurance Company submitted that the Insurance Company has deposited RS.10,51,906/-. If it is so, the balance amount shall be deposited within a period of twelve weeks from the date of receipt of copy of this judgment. On such deposit, the first and sixth claimants shall withdraw their share of compensation on appropriate application. The minor claimants' shares shall be invested in any of Fixed Deposit till they attain maturity. The interest accrued on such deposit shall be permitted to be withdrawn by mother guardian and be spent for their welfare.

10. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No order as to costs.

Sd/-
Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar

vri

To

The Principal District Court Judge,
The Motor Accidents Claims Tribunal,
Perambalur.

Copy To

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

+1cc to Mr.C.Vidhusan, Advocate, S.R.No.18514

+1cc to Mr.G.Udaya Sankar, Advocate, S.R.No.19203

CMA NO.2645 of 2017

VG-II(CO)
RLP(08/10/2021)

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