IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.M.A.NO.592 OF 2017
AND
C.M.P.NO.1866 OF 2016

N.Lakshmi ... Appellant/Claimant

.Vs.

1. S.Saravanan

2. V.Ramasamy

3. The United India Insurance Company Limited.,
   Having Divisional Office at
   No.2, Dr.Sankaran Road,
   Namakkal - 637 001.

4. S.Chellammal

P.Subbaraya Gounder (died)

5. S.Loganathan

6. Rasathi

(5th Respondent has filed the counter and stating that he don't want apportionment in the claim amount and 6th respondent was set-exparte before the Tribunal, hence notice may be dispensed with)

... Respondents/Respondents

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.08.2015 made in M.C.O.P.No.734 of 2011 on the file of the Motor Accident Claims Tribunal (Special District Judge, Erode).

For Appellant : Mr.D.Lakshmipathy
For Mr.M.Guruprasad

For Respondents : Mr.S.Kaithamalai Kumaran
For R4

M/s.R.Malar for R3

R6 - Ex-parte

R1 & R5 - No Appearance

R2 - Not served

J U D G M E N T

Heard the learned counsel appearing for the Appellant and the learned counsels appearing for the respondents.

2. The Appellant is the widow of the deceased T.S.Natarajan and the 4th respondent is the mother of T.S.Natarajan. They have claimed compensation for the fatal accident suffered by T.S.Natarajan.

3. On 25.11.2011, when T.S.Natarajan was driving a TVS Max 100 motor cycle bearing registration No.TN-33-R-3800 from Erode to Pallipalayam on Cauvery Road, a lorry bearing registration No.TN-28-AA-3553 came in the same direction and dashed the motor cycle from behind. This naturally can lead to a very strong presumption that the driver of the lorry was responsible for the accident. The Tribunal also affirmed that particular aspect. This also meant that the Insurance Company, who is the 2nd respondent had to bear the compensation determined.

4. It is stated by the learned counsel for the Appellant that the Appellant was aged 48 years at the time of his death and was running a textile business and also possessed agricultural lands. Documents on those particular aspects had been filed. Income tax certificates had also been filed. However, the learned Tribunal had rejected the said documents stating that the documents are self-serving in nature. The compensation granted by the Tribunal was as follows:-

Heads	Amounts
For Funeral Expenditure	Rs.25,000/-
For loss of love and affection	Rs.10,000/-
For Transportation	Rs.10,000/-

For Consortium	Rs.25,000/-
For the loss of dependency	Rs.8,11,200/-
Total	Rs.8,81,200/-

The aforementioned compensation granted had been apportioned between the Appellant and the 4th respondent i.e., widow and mother of the deceased. Questioning that particular quantum of compensation, the present appeal has been filed.

5. It is seen from the records that the deceased was aged 48 years old. The documents which had been been produced to establish income are, Ex.P11, PAN Card, Ex.P12, VAT paid towards the business M/s.NSN Textiles, Ex.R1(Series), the Certificates of Registration and Ex.P13, Income Tax ackowledgment for Assessment Year 2009 – 2010. The gross total income was reflected as Rs.86,000/-. Ex.P14 was the Income Tax Return Verification Form for Assessment Year 2010-2011. Exs.P15 – P19 were documents relating to the agricultural lands. The Tribunal had determined the monthly income at Rs.6,000/-, stating that accounts had not been produced to show the income earned through the business and agricultural activity. I would, however increase the monthly income to Rs.7,500/-.

6. It had been stated by the learned counsel for the respondent that 30% has been added towards future prospects and that has to be revisited by this Court and that 25% should be fixed. I would concur and hold that 25% would be just for determining the deduction for personal expenses. The deceased was aged 48 years and so a multiplier of 13 can be adopted. The compensation for loss of dependency would be:-

Monthly income	Rs.7,500/-
25% to be added as future prospects	Rs.1,875/-
Total Monthly income	Rs.9,375/-
Less 25% for personal expenses	Rs.2,345/-
Monthly contribution to the family (Rs.9,375 – Rs.2,345)	Rs.7,030/-
Annual Contribution to the family (Rs.7,030 X 12)	Rs.84,360/-
By applying multiplier 13 (Rs.84,360 X 13)	Rs.10,96,680/-

7. With respect to funeral expenses, let me not interfere with the compensation granted but, under the head of loss of love and affection, I would interfere with the compensation granted and grant a sum of Rs.40,000/-. The compensation granted for Transport expenses to a sum of Rs.10,000/- will remain the same. A sum of Rs.25,000/- was granted for loss of consortium. The total compensation arrived is thus as follows:-

Heads	Amounts
For Funeral Expenditure	Rs.25,000/-
For loss of love and affection	Rs.40,000/-
For Transportation	Rs.10,000/-
For Consortium	Rs.40,000/-
For the loss of dependency	Rs.10,96,680/-
Total	Rs.12,11,680/-

8. The Civil Miscellaneous Appeal is partly allowed to that extent enhancing the compensation which had been determined as Rs.8,81,200/- to Rs.12,11,680/-. The other aspects in the order shall remain the same. The Insurance company shall deposit the difference in compensation amount i.e., Rs.3,30,480/- with interest at 7.5% from the date of filing of the petition till the date of deposit within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, since both the wife/appellant and the mther/4th respondent would be required this particular amount, they are at liberty to file necessary application for payment out and it may be pai dout in the ratio of 60:40. The respondents 5 and 6 may not get any share as they are Clause - 2 heirs.

9. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

kkn

To

The Motor Accidents Claims Tribunal,
The Special District Judge,
Erode.

Copy To:-

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

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.10587
+1cc to Mr.S.Kaithamalai Kumaran, Advocate, S.R.No.10172
+1cc to Mr.T.Ravichandran, Advocate, S.R.No.10577

C.M.A.NO.592 OF 2017 AND
C.M.P.NO.1866 OF 2016

AJS(CO)
PBS/04/05/2022