IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.361 of 2022

The Divisional Manager,
National Insurance Company Ltd.,
Divisional Office, Vellore. ... Appellant

-Vs-

1.T.Seetha
2.T.Uma
3.Minor.T.Chittibabu
(Minor rep. by 1st respondent/guardian sister
Seetha)
4.Thomas Mathew ...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the Award and Decree dated 27-7-2021 made in M.C.O.P.No.146 of 2016 on the file of the Motor Accidents Claims Tribunal (II Additional District Court), Vellore @ Ranipet.

For Appellant	: Mr.D.Bhaskaran
For R1 to R3	: Mr.N.Sivakumar
For R4	: notice d/w Vide order dt. 10/10/23

JUDGMENT

The claimants herein have lost both their parents in a road accident when an Innova Car bearing Regn.No.KL 03 U 5454 dashed against the two wheeler bearing Regn.No.TN 73 B 4925, which the victims were riding. The accident took place on 20.01.2016 at around 23.00 hours. Both the victims were farm laborers. The Accident is not disputed and the Appellant/Insurance Company also owns up the liability. However, it essentially disputes the quantum as calculated by the Tribunal.

2.Seeking compensation, the claimants have preferred separate petitions before the Tribunal and the one involved in this case relates to compensation for the death of their mother. The Tribunal had reckoned the age of the victim at 35 years based on Ext.P2, death certificate and there is no other document to support the age of the victim and it proceeded to reckon the loss of dependency based on the notional income of Rs.9,000/-, to which it added another 40% reckoning the age at 35 years based on ***National Insurance Company Ltd., Vs. Pranay Sethi and others*** [2017 2 TANMAC 609] and arrived at a total loss of monthly dependency at Rs.12,600/-. Applying a multiplier of 16, it arrived at the total loss of dependency at Rs.24,19,200/-. This component is now under challenge.

4.The learned counsel for the appellant made the following statements;

a) it is an admitted fact that the first claimant was aged 23 years and the second claimant was aged 20 years in 2016 when the petition was filed seeking compensation but, the petition was filed on the very year of the accident. This would imply that the victim would be a mere 12 year old at the time when she gave birth to the first claimant, which again implies that she should have married when she was 11 years old. It is therefore, necessary for the claimant to produce at least the postmortem certificate of their mother to fix her approximate age.

b) The second flaw in the Award of the Tribunal is that it did not deduct anything towards the personal expenditure of the victim.

5.This Court carefully weighed the submissions of the appellant's counsel. To beget a child, even if it were born out of any prohibited marriage under the Prohibition of Child Marriage Act, 2006, or the predecessor enactment, the Child Marriage Restraint Act, it is not necessary that there should be a marriage. But, inasmuch as this issue is raised, it would have been appropriate for the claimants to produce some document to indicate at least the approximate age of the victim. Given the age of the claimants, this Court considers it appropriate to fix the age of the victim between 41 years to 45 years. If so fixed, then the future prospects to be added as per ***National Insurance Company Ltd., Vs. Pranay Sethi and others*** dictum will be 25% and the multiplier will also vary from 16 to 14.

6.Having stated thus, this Court also reckons that the notional income of the victim was fixed at Rs.9,000/-, which this Court considers may be at the lower end. It may be stated that beyond the loss of love and affection, a mother provides her own domestic help to these children, that cannot be measured in terms of money. This Court therefore, considers fixing the notional income, which also includes the value of the service the victim might have provided the family with, at Rs.11,000/-, to which another 25% is added towards future prospects. Thus, the loss of monthly dependency is determined at Rs.13,750/-. Applying a multiplier of 14 and deducting 1/3rd of it towards personal expenditure of the victim, the total loss of dependency will be Rs.15,40,000/-

7.So far as other heads of compensation is concerned, this Court does not find any reason to interfere with the Award of the Tribunal. In view of the modification made to the value of dependency herein above indicated, the total compensation is now reduced to Rs.17,15,000/-. As to the rest, the Award of the Tribunal is confirmed.

8.The learned counsel for the Appellant/Insurance Company submitted that the Insurance Company had deposited the entire compensation amount as Awarded by the Tribunal. The Appellant is now allowed to withdraw the balance amount from the Tribunal. The Court now Awards R.7,15.000/- to the third claimant and the balance is required to be divided equally between the claimants 1 and 2, at Rs.5,00,000/- each. Claimants 1 and 2 are entitled to withdraw the same to which they are entitled to as per law and the compensation amount pertaining to the third claimant is concerned, it is directed to be deposited in a nationalised Bank in an interest bearing Fixed Deposit till the minor attains the age of majority and the first claimant/guardian of the third claimant is permitted to withdraw the accrued interest on the deposits of the minor once in three months.

9.The Civil Miscellaneous Appeal is partly allowed. No costs.

10.10.2023

Tsg

To

1.The Motor Accidents Claims Tribunal,
(II Additional District Court), Vellore @ Ranipet.
2.The Section Officer,
V.R.Section, High Court, Madras.

N.SESHASAYEE, J.,

Tsg

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