**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 03.11.2023**

**CORAM: JUSTICE N.SESHASAYEE**

**CMA.No.465 of 2022**

1.K.Dhanalakshmi
2.Minor D.S.Srisaikuzhali
3.Minor D.S.Srisaikamali
(Petitioners 2 and 3 being minors
Rep. by their mother and next friend
i.e., 1st Petitioner)
4.C.Ponnammal ... Appellants

-Vs-

1.S.Sathish
2.The Oriental Insurance Company Limited,
Oriental House, II Floor,
No.216, O.No.115, Prakasam Salai,
Braodway, Chennai – 600 108. ...Respondents
(R2 cause title amended Vide order of
Corut dated 13/10/2023 made in
CMP.No.17196/2023 in CMA.No.465/2022
by NSSJ)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the Judgment and Decree in MCOP.No.1882 of 2017, dated 19.02.2020 on the file of Special Sub Judge – 1, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai.

| | | |
|---|---|---|
| For Appellant | : | Mr.G.Balaji Prasad<br>for Mr.R.Rajesh Kumar Maurya |
| For R1 | : | No appearance |
| For R2 | : | Mr.J.Chandran |

**JUDGMENT**

The appellants herein are the claimants who have preferred this appeal dissatisfied with the quantum of award granted by the Tribunal in a fatal accident where a car bearing Registration No.TN-49-AP-1145 ran over a pedestrian. The accident took place on 27.02.2017, at around 19.30 hrs. The deceased was a permanent teaching faculty at an aided psrivate school and his last drawn salary as per Ex.P.9 is stated to be Rs.47,454/-. The salary slip shows Rs.5,335/- was deducted under the heads CPS, Family Benefit Fund, Festival Advance, Special Provident Fund etc., and the net salary received by the victim was Rs.42,119/- per month.

2.The appellants are aggrieved by the award on two grounds;

a) that the Tribunal was wrong in deducting Rs.5,335/- which is non-deductible while reckoning the income of the victim for calculating loss of dependency;

b) since the victim was a permanent employee aged 44 years, the Tribunal ought to have granted 30% towards future prospects instead of 25% that it has granted.

3.Mr.J.Chandran, the learned counsel for the second respondent submitted that as per Ex.P.26, Form - 16 of the Income Tax, the victim has paid Rs.16,230/- as income tax for the financial assessment year 2017 - 2018. This amount needs to be deducted, and the Tribunal has not considered it.

4.This Court carefully appreciated the rival submissions and is satisfied that the submission made on behalf of the learned counsel for the appellants is tenable. This Court therefore, reckons the monthly income of the victim at Rs.47,454 to which it adds another 30% towards future prospects on the basis of the ratio in ***National Insurance Company Ltd., Vs. Pranay Sethi and others*** [2017 2 TANMAC 609], and thus arrives at an annual income of Rs.7,40,282.4, from which it deducts Rs.16,230 towards income tax, which is seem to have been paid as per Ext.P6 and deducts ¼ towards the personal expenditure of the victim and applies a multiplier of 14 and arrives at a net value of dependency at Rs.76,02,550.2, which is rounded off to Rs.76,02,550.

5.The compensation awarded by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is enhanced from Rs.68,33,750/- to Rs.78,02,550/-, break-up as follows -

| Sl. No | Description | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|---|---|---|---|---|
| 1. | Total loss of dependency | 66,33,743/- | 76,02,550/- | Enhanced |
| 2. | Loss of Consortium | 40,000/- | 40,000/- | Confirmed |
| 3. | Loss of Affection | 1,25,000/- | 1,25,000/- | Confirmed |
| 4. | Loss of Estate | 15,000/- | 15,000/- | Confirmed |
| 5. | Transport Charges | 5,000/- | 5,000/- | Confirmed |
| 6. | Funeral Charges | 15,000/- | 15,000/- | Confirmed |
| | **Grand Total** | **68,33,750/-** | **78,02,550/-** | Enhanced by 9,68,800/- |

6.With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.68,33,750/- is hereby enhanced to Rs.78,02,550/- together with interest at 7.5% per annum (excluding the default period if any) from the date of petition till the date of deposit. The second respondent/insurance company is stated to have deposited the entire compensation amount as awarded by the Tribunal. The second respondent/insurance company is now required to deposit the differential amount of the enhanced portion of the compensation herein awarded with interest at 7.5% within a period of six (6) weeks from the date of a receipt of copy of this Judgment. The enhanced portion of the compensation is directed to be shared equally between claimants 2 and 3, who are minors. The enhanced compensation amount pertaining to the minors 2 and 3 is directed to be deposited in a nationalised Bank in the interest bearing Fixed Deposit till the minors attain the age of majority and the mother of the minors viz., K.Dhanalakshmi is permitted to withdraw the accrued interest on the deposit of the minors once in six months. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

03.11.2023

Tsg

To

1.The Special Sub Judge – 1,
Motor Accidents Claims Tribunal,
Court of Small Causes, Chennai.
2.The Section Officer,
V.R.Section, High Court, Madras.

**N.SESHASAYEE, J.,**

Tsg

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**<u>03.11.2023</u>**