IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.679 of 2018

The Branch Manager
New India Assurance Company Limited
Vellore ... Appellant

Vs

1. Manjula Bai
2. A.Babu Rao
3. Mageswari Bai
4. Minor Hindu Bai
5. Gubendiran ... Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 19.01.2017, made in MCOP.No.61 of 2015, by the Special Subordinate Judge (MACT) Tirupattur.

For Appellant : Mr.J.Chandran

For Respondents : Ms.M.Malar-RR1 to 4

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 19.01.2017, made in MCOP.No.61 of 2015, by the Special Subordinate Judge (MACT) Tirupattur.
2. The claimants/ Respondents 1 to 4, who are the mother, father and sisters, of the deceased, namely, Sathiya Rao @ Sakthi, have filed the claim petition before the Tribunal, seeking a compensation of Rs.20,00,000/- on various heads, for the death of the deceased, who died in a motor road accident,

which took place on10.09.2014. The claim petition was resisted, on various grounds, by the Appellant Insurance Company, by filing a counter. The 5th Respondent, owner cum driver of the offending vehicle remained exparte. On the side of the claimants, PW.1 and PW.2 were examined and Ex.P1 to Ex.P21 were marked. On the side of the Insurance Company, RW.1 was examined.

3. Finding that the deceased died in the alleged motor road accident due to the rash and negligent driving of the driver of the offending vehicle, the Tribunal has awarded a total compensation of Rs.11,73,400/- with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Dependency	1053000.00
2	Loss of Estate	5000.00
3	Funeral Expenses	25000.00
4	Transportation Expenses	9400.00
5	Loss of Love and Affection	80000.00
6	Medical Expenses	1000.00
Total Compensation		**1173400.00**

Aggrieved by the quantum of compensation, this appeal has been filed by the Insurance Company.

4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.

5. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to

narrate the entire facts in detail in respect of the accident.

6. According to the learned counsel for the Appellant, the Tribunal erred in adding 50% towards future prospects, while arriving at the loss of dependency and the compensation awarded under the other heads are also on the higher side. According to the learned counsel for the Respondents 1 to 4, the compensation awarded by the Tribunal is just and proper.
7. The deceased was aged 25 years old at the time of the accident and the proper multiplier is 18. Though it is claimed by the claimants that the deceased was earning a sum of Rs.15,000/- p.m., as a mason, in the absence of evidence to prove the same, the Tribunal rightly fixed the notional monthly income of the deceased at Rs.6,500/-. Where the injured is below 40 years old, adding 40% towards future prospects would be proper and deduction of 1/2nd towards personal expenses would also be proper. Accordingly, after adding 40% of the monthly income towards future prospects and then, deducting 1/2nd towards his personal expense, the loss of monthly dependency would come to Rs.4,550/-. Thus, the total loss of dependency would come to Rs.9,82,800/- (Rs.4,550x12x18).
8. The compensation of Rs.9,400/- towards transportation expenses awarded by the Tribunal is set aside. The compensation of Rs.5,000/- towards loss of estate and Rs.25,000/- towards funeral expenses are modified to Rs.15,000/- and Rs.15,000/- respectively. The compensation awarded under the other heads are retained.
9. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the

claimants are entitled to a total compensation of Rs.10,93,800/- (Rupees ten lakhs ninety three thousand eight hundred only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Dependency	982800.00
2	Loss of Estate	15000.00
3	Funeral Expenses	15000.00
4	Loss of Love and Affection	80000.00
5	Medical Expenses	1000.00
Total Compensation		**1093800.00**

Out of the total compensation, Rs.4,70,000/-, Rs.4,70,000/-, Rs.76,900/- and Rs.76,900/- with proportionate interest are apportioned to the claimants 1 to 4 respectively. The Appellant Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants 1 to 3 are entitled to withdraw their respective shares with proportionate interest, by filing proper application. The share of the minor claimant shall be deposited in any one of the Nationalised Banks till she attains majorty. The 1st claimant is entitled to withdraw interest from the deposit of the shares of the minor claimant once in six months directly from the Bank. No costs. No costs.

14.06.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To

1. The Special Subordinate Judge (MACT) Tirupattur
2. The Record Keeper, VR Section, High Court, Madras

A.A.NAKKIRAN, J.

Srcm

CMA.No.679 of 2018

14.06.2023