BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.09.2024

PRONOUNCED ON : 12.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.584 of 2024

The Branch Manager,
Oriental Insurance Company Ltd.,
having its office Door No.16,
K.J.R. Complex,
Vadakkuveli Veethi,
Madurai City, Madurai District. ... Appellant

Vs.

1.Minor.Shivani

2.Minor.Harshini

(Minors represented through their grandmother Gurulakshmi)

3.Anbalagan ... Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the fair and decreetal order of the Tribunal of MACT Subordinate Judge, Aruppukottai made in M.C.O.P.No.623 of 2018 dated 22.09.2023.

For Appellant : Mr.Jawahar Ravindran

For R1 & R2 : Mr.D.Mohan
Mr.C.Godwin

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JUDGMENT

The instant appeal has been filed by the Insurance Company seeking reduction of compensation on the ground that the Tribunal had not made any deductions towards Income Tax.

2. The first and second respondents filed a claim petition before the Tribunal stating that while their mother was travelling as a pillion rider in a car, the driver of the car, namely, the husband of the deceased, drove the car in a rash and negligent manner, as a result of which the car capsized and the deceased sustained fatal injuries.

3. The appellant, Insurance Company, filed a counter before the Tribunal stating that the husband of the deceased was a tortfeasor and hence, they are not liable to pay any compensation, and that in any case, the compensation claimed was excessive.

4. The first and second respondents/claimants examined 4 witnesses as P.W.1 to P.W.4 and marked nineteen documents as Exs.P1 to P19. The appellant neither examined any witnesses nor marked any documents.

5. The Tribunal found that the appellant as an insurer was liable to pay compensation of Rs.1,08,51,500/-.

6. The learned counsel for the appellant, Insurance Company, submitted that they have challenged the award only on the ground that no deductions were made by the Tribunal towards Income Tax while awarding compensation, and the other findings of the Tribunal are not under challenge.

7. The learned counsel for the first and second respondents/ claimants submitted that even if the tax is deducted, the compensation cannot be reduced by Rs.10,00,000/- (Rupees Ten Lakhs) as contended by the learned counsel for the appellant, Insurance Company, and produced the copy of the Income Tax Calculation Sheet for the Assessment Year 2017-2018, certified by the Headmaster of the Government School, where

the deceased was working as a Head Mistress, and submitted that the deceased paid a sum of Rs.10,837/- as tax before the death.

8. The only point for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

9. From the submissions made by the learned counsels on either side and on perusal of the grounds of appeal, it is seen that the appellant is not aggrieved by the finding on negligence and their liability to pay compensation. The appellant had admitted their liability to the tune of Rs.98,01,000/-. Since the issue as to whether the Income Tax payment should be deducted was not specifically raised before the Tribunal, the claimants had no opportunity to produce the Income Tax Returns. The claimants have now produced a Calculation Sheet, which is certified by the Head Master of the School, where the deceased was working at the time of her death. As per the Calculation Sheet, the deceased is said to have paid Rs.10,837/- as tax for the Assessment Year 2017-2018. The returns filed by the deceased and the acknowledgment of the Income Tax Department have not been produced by the claimants.

10. The learned counsel for the appellant, Insurance Company, however, had not objected to the contents of the document but contended that the deduction mentioned in the Income Tax Calculation Sheet should not be taken into account since it can vary from year to year.

11. Since the appellant, Insurance Company, had not produced the Income Tax Returns, this Court is of the view that the document produced by the claimants can be accepted for the limited extent of understanding the pattern of investments made by the deceased. The deceased had exhausted the maximum deduction, limit of Rs.2,00,000/-, under Section 80CCD(1) and Section 80CCD(1B) of the Income Tax Act, 1961. The taxable income would be arrived at only after the aforesaid deductions. Though it may vary from year to year, this Court is of the view that considering the investments made by the deceased, the tax has to be computed on the income after making the permissible deductions under the Income Tax Act, 1961.

12. The exact income tax payment cannot be calculated, as the income tax rate varies for different slabs of income. Therefore, only an approximate estimate of the tax payable can be made. The deceased had

paid Rs.10,837/- as tax during the Assessment Year, when she died. However, the same cannot be the basis for all the 15 years (15 is the multiplier applicable). Considering the monthly income of the deceased at Rs.59,675/- and the approximate increment that she would have earned, this Court is of the view that the average taxable income per annum, after the permissible deductions, can be fixed at Rs.7,00,000/- for 15 years.

13. The applicable tax for ladies during the relevant period was: 0% for the income up to Rs.2,50,000/-; 5% for the income between Rs.2,50,001/- and Rs.5,00,000/-; and 20% for the income between Rs.5,00,001/- and Rs.10,00,000/-. Thus, the tax for the taxable income of Rs.7,00,000/- would come to Rs.52,500/- [Rs.12,500/- + Rs.40,000/-] per annum. If the same is multiplied by 15, the approximate income tax, that would have been paid by the deceased for 15 years, would come to Rs.7,87,500/-. The said amount has to be deducted from the total compensation of Rs.1,08,51,500/-. Thus, the total compensation payable by the appellant would be Rs.1,00,64,000/- [1,08,51,500 - 7,87,500].

14. The appellant, Insurance Company, is directed to deposit the modified amount of Rs.1,00,64,000/- together with interest at 7.5% per

annum from the date of the claim petition till the date of the realization, after deducting the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment.

15. The first and second respondents/claimants are entitled to the aforesaid compensation as per the apportionment fixed by the Tribunal.

16. Since the first and second respondents/claimants are minors, their shares are directed to be deposited in an interest-bearing fixed deposit [F.D.] in any nationalized bank until they attain majority. Mrs.Gurulakshmi, the grandmother/guardian of the first and second respondents/claimants, is permitted to withdraw the interest accrued so far and the interest once every three months, for the benefit of the minor children.

17. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.

12.09.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order
DK/JEN

Copy To:

1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Aruppukottai,
Virudhunagar District.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras high Court,
Madurai.

SUNDER MOHAN, J.

DK/JEN

Pre-delivery Judgment made
in
C.M.A.(MD) No.584 of 2024

12.09.2024