(2015) 08 MAD CK 0006

In the Madras High Court

Case No : C.M.A. No.1845 of 2015 and M.P.Nos.1 of 2015

M/s. Royal Sundaram Alliance Insurance Co. Ltd. APPELLANT

Vs

S. Lakshmi RESPONDENT

Date of Decision : 27-08-2015

Acts Referred:

Citation : (2016) 1 TNMAC 490

Hon'ble Judges : Mr. S. Manikumar and Mr. G. Chockalingam, JJ.

Bench : Division Bench

Advocate : Mr. N. Vijayaraghavan, Advocate, for the Appellant

Final Decision : Disposed Off

Judgement

S. Manikumar, J.—Challenge in this appeal filed by M/s. Royal Sundaram Alliance Insurance Co. Ltd., Chennai, is to the quantum of compensation of Rs.17,45,000/-, with interest, at the rate of 7.5% per annum, from the date of claim, till the date of deposit, awarded to the parents, legal representatives of the deceased. The deceased was stated to be a first year Engineering student, studying in Dr. K.Vasudevan College of Engineering Technology and aged 19 years, at the time of accident.

2. Material on record discloses that on 03.04.2013, when the deceased Suganya, was travelling as a pillion rider, in a Motorcycle, bearing Registration No.TN 22 CX 0055, a lorry, bearing Registration No.TN 11 Y 2301, driven in a rash and negligent manner, insured with the Company, dashed against the two-wheeler, due to the impact, she fell down and the lorry ran over her hip, and she died on the spot. In this regard, a case in Cr.No.469 of 2013, has been registered, against the driver of the lorry, on the file of Mount Traffic Investigation Wing.

3. Before the Claims Tribunal, the mother, motorcyclist examined herself as PW.1, and she has spoken about the manner of accident. She has marked the documents, Ex.P1 - FIR, Ex.P2 - Death Report, Exs.P3 & P4 - Motor Vehicles Inspector''s reports, Ex.P5 - Post-Mortem Certificate, Ex.P6 - Death Certificate,

Ex.P7 - Legal Heir Certificate, Ex.P8 - Driving Licence of PW.1 and Ex.P9 - College Transfer Certificate. There is no oral or documentary evidence, on the side of appellant-Insurance Company. Evaluating the same, the Claims Tribunal fixed negligence on the driver of the lorry, insured with the appellant-Insurance Company.

4. Having regard to the age of the deceased and the documents, stated supra and following the Hon''ble Division Bench decision of this Court reported in 2014 (1) TNMAC 657, the Claims Tribunal fixed the monthly income of the deceased as Rs.10,000/-. Following the decision made in Rajesh v. Rajbir Singh reported in 2013 (2) TNMAC 55 (SC), the Claims Tribunal added up Rs.5,000/- towards future prospects. The Tribunal has fixed the monthly income of the deceased at Rs.15,000/-.

5. Applying the decisions in Sarla Verma v. Delhi Transport Corporation reported in 2009 (5) MLW 561, Amrit Bhanu Shali v. National Insurance Company Ltd., reported in 2012 (2) TNMAC 321 and M. Mansoor v. United India Insurance Co. Ltd., reported in 2013 (2) TNMAC 481 (SC), the Claims Tribunal applied ''18'' multiplier for computing the compensation. After deducting ?rd towards personal and living expenses of the deceased, the Claims Tribunal has awarded Rs.16,20,000/- (Rs.15,000 x 12 x 18 x ?), towards loss of dependency. Besides, the Claims Tribunal has awarded Rs.25,000/- towards Funeral Expenses and Rs.1,00,000/- (Rs.50,000/- each), for loss of love and affection. Altogether, the Claims Tribunal has awarded Rs.17,45,000/-, as total compensation.

6. Though Mr. N. Vijayaraghavan, learned counsel for the appellant-Insurance Company, assailed the correctness of the finding, fixing negligence on the driver of the bus, as erroneous, this Court is not inclined to reverse the same. Testimony of PW.1, motorcyclist, is duly corroborated by Ex.P1 - FIR and Exs.P3 and P4 - Motor Vehicles Report, as regards the manner of accident.

7. As regards the quantum of compensation, PW.1, mother of the deceased, has deposed that at the time of accident, the deceased, aged about 19 years, was a first year B.E. Engineering (EEE) student in Dr. K. Vasudevan college of Engineering Technology and marked Ex.P8 - College Transfer Certificate. Income of the deceased has been determined, based on the decision of the Hon''ble Division Bench in 2014 (1) TNMAC 657. Addition of 50% of the income, towards future prospects, has been made, based on the decision of the Apex Court in Rajesh v. Rajbir Singh reported in 2013 (2) TNMAC 55 (SC). Application of ''18'' multiplier has been done, taking note of the decisions of the Apex Court in Sarla Verma v. Delhi Transport Corporation reported in 2009 (5) MLW 561, Amrit Bhanu Shali v. National Insurance Company Ltd., reported in 2012 (2) TNMAC 321 and M. Mansoor v. United India Insurance Co. Ltd., reported in 2013 (2) TNMAC 481 (SC).

8. The accident has occurred on 03.04.2013. The Claims Tribunal has taken note of the decisions of the Apex Court, while arriving at the quantum of

compensation. Though the quantum of compensation is stated to be on the higher side, having regard to the educational qualifications, which the deceased, would have acquired and the employment opportunities for electrical and electronic engineering graduates, a sum of Rs.15,000/-, taken into consideration by the Claims Tribunal, for computing the loss of contribution to the family, cannot be said to be erroneous.

9. Computation of loss of dependency has been done, only for 18 years. Even taking it for granted that the deceased would have got married, after some time, still the contribution to the family, would have continued for a longer time. Quantum of compensation of Rs.17,45,000/-, awarded to the legal representatives of the deceased, cannot be said to be on the higher side, warranting interference.

10. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant-Insurance Company is directed to deposit the award amount, with accrued interest and costs, to the credit of M.C.O.P.No.3862 of 2015, on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai, within a period of three weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents/claimants are permitted to withdraw the same, by making necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.