(2015) 07 MAD CK 0010

In the Madras High Court

Case No : C.M.A. No.299 of 2011

National Insurance Company Limited — APPELLANT

Vs

R. Santhi — RESPONDENT

Date of Decision : 07-07-2015

Acts Referred:

Citation : (2016) 1 TNMAC 346

Hon'ble Judges : Mr. N. Kirubakaran, J.

Bench : Single Bench

Advocate : Mr. S. Vadivel, Advocate, for the Petitioner; Ms. A. Soloni for Mr. B. Naveen Raja, Advocates, for the Respondents

Final Decision : Disposed Off

Judgement

Mr. N. Kirubakaran, J.—The appeal has been preferred by the Insurance Company against the award of Rs.10,30,735/- for the death of one S.R.Balaji, 21 year old, third year student of hotel management and also working as part time Supervisor, allegedly earning about a sum of Rs.16,000/- in the accident occurred on 21.9.2004.

2. Heard Mr. S. Vadivel, learned counsel appearing for the appellant and Ms. A. Soloni, learned counsel appearing for the respondents/claimants. The only question to be decided is with regard to quantum of compensation.

3. The Tribunal took Rs.7500/- as monthly income as it was alleged that the claimant was working part time job as Catering Supervisor with a Private Catering Contractor. Taking into consideration, the deceased was above average student and also considering his future prospects, after deducting ? towards personal expenses and applying multiplier-13, as per age of the mother determined the loss of income at Rs.7,80,000/-, including other amounts, Rs.10,30,735/- was awarded and rounded to Rs.10,00,000/-.

4. Though the claimant is an employee as per Ex.P12, Income Certificate stating that the deceased was working as a part time Catering Supervisor with a Private

Catering Contractor, the Tribunal did not believe that document. However, it determined the monthly income at Rs.7,500/- per month. In any event, the said determination cannot be termed to be on the higher side.

5. As the deceased would have earned after completion of the course, the income of Rs.7500/- per month, determined by the Tribunal is confirmed. The Tribunal, only deducted ? towards personal expenses. Whereas, the deceased was a bachelor and therefore, 50% is required to be deducted towards personal expenses. The Tribunal ought to have adopted the multiplier as per the age of the deceased. Whereas, the Tribunal applied multiplier as per the age of the mother. Therefore, according to the age of the deceased namely, 21 years, appropriate multiplier is 18 and the same is adopted.

Thus the loss of income is calculated as Rs.7,500/- - Rs.50% X 12 X 18 = Rs.8,10,000/-.

Rs.70,995.22/- awarded towards medical expenses as per Ex.P2, Income Certificate is confirmed. Similarly Rs.1,27,740/- paid as medical expenses, Rs.2000/- towards funeral expenses awarded are also confirmed. Rs.50000/- awarded towards loss of love and affection is reduced to Rs.20,000/-. The award of Rs.10,30,735/- rounded to Rs.10,00,000/- is confirmed.

6. The Tribunal taking into consideration of no driving licence was possessed by the driver of the van insured with the appellant Insurance Company, rightly exonerated the Insurance Company. However, the Tribunal directed the Insurance Company to pay and recover the amount from the owner of the van. The said consideration is as per law and the same cannot be interfered with. The award of the Tribunal Rs.10,00,000/- along with interest at 9.5% per annum is confirmed. The appellant is directed to deposit the entire award amount along with interest and costs after deducting the amount if any already deposited within a period of four weeks from the date of the receipt of a copy of the order. On such deposit, the respondents are permitted to withdraw the entire award amount as per the ratio fixed by the Tribunal within one week thereafter. The appeal is dismissed. No costs. Consequently the connected M.P.No.1 of 2015 is closed.