(2016) 09 MAD CK 0013

In the Madras High Court

Case No : C.M.A. No.1079 of 2016 and C.M.P. No.8039 of 2016

The Branch Manager, M/s. Reliance General Insurance Co. Ltd., Chennai	APPELLANT
Vs	
Padmavathi	RESPONDENT

Date of Decision : 08-09-2016

Acts Referred:
Motor Vehicles Act, 1988 — Section 168

Citation : (2017) AAC 130

Hon'ble Judges : Mr. S. Manikumar and Mr. N. Athinathan, JJ.

Bench : Division Bench

Advocate : Mr. T. Gopinath, Advocate, for the Respondents 1 to 5; Mr. N. Vijayaraghavan, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

S. Manikumar, J. - Arising out of an accident, which occurred on 26.04.2013, there were several claims and they were jointly heard.

2. Appeal is directed against the judgment and decree, dated 30.11.2015 made in M.C.O.P. No.760 of 2013, on the file of the Motor Accidents Claims Tribunal, (Principal District Court), Perambalur, by which, the Tribunal, after fixing negligence on the driver of the Eicher Maxi Cab, bearing Registration No.TN 20 BS 7979, insured with the appellant-Insurance Company, awarded compensation of Rs. 26,12,000/-, with interest, at the rate of 7.5% per annum, from the date of claim, till the date of realisation.

3. Before this Court, the appellant-Insurance Company has not challenged the finding, fixing negligence, on the driver of the above said vehicle. Mr. N. Vijayaraghavan, learned counsel for the appellant also made submissions to that effect. Therefore, there is no need to advert to the same.

4. Perusal of the common award shows that PW.9, examined in the joint trial and the 1st respondent herein, is the wife of the deceased. She has deposed that at

the time of accident, her husband was aged 47 years and was running a pickle factory, in the name and style of "Kalai Arasi Pickles". He was also doing a contract work in electrical and mechanical works, in the name and style of "M.P. Jothi Enterprises" and earned Rs. 50,000/- per month. On account of his sudden demise, the respondents/claimants have lost the contribution to the family, loss of love and affection, loss of consortium and loss of estate to the family. To prove the relationship, she has marked Ex.P38 - Death Certificate, Ex.P39 - Legal Heirship Certificate and Ex.P40 - Family Card.

5. Before the Tribunal, PW.9, wife of the deceased, has further deposed that the deceased was an Income-Tax assessee and to substantiate the same, marked Exs.P55 to P57, Income Tax returns for the assessment years 2010-11 to 2012-13 respectively. Documents, Ex.P42 - Visiting card of the deceased, Ex.P43 - Blank letter head of the deceased, Ex.P45 - Form of Certificate of Registration of M.P. Jothi Enterprises, run by the deceased, Ex.P46 - Registration Certificate of Kalai Arasi Pickles factory run by the deceased, Ex.P47 - Original rent agreements for the years 2010 and 2012 of the deceased, Ex.P50 - Form 16 and Income Tax recovery statements of M/s. Jothi Enterprises run by the deceased, have also been marked.

6. Documents such as Ex.P44 - Pass book of Canara Bank and other counter foils of the deceased and Ex.P48 - Statements of accounts of Union Bank of India, addressed to M/s. Jothi Enterprises run by the deceased, have also been marked to substantiate that the deceased had various bank accounts. Pan Card has been marked as Ex.P41. Exs.P51 to 54 are the sales tax and commercial tax receipts. Besides, Ex.P49 has been marked to prove that the deceased had taken a tender, for erection and commissioning of sewage submersible pumpset at Tondaiarpet "C" sewage pumping station. Based on the above documents, the respondents/ claimants have claimed that the deceased was an income-tax assessee and earned a considerable income, during his life time.

7. Per contra, before the Tribunal, the appellant-Insurance Company has submitted that the documents produced were only to prove that the deceased was an income-tax assessee and no materials have been produced to support the contentions that the deceased had taken any tender for contract work for the supply and erection of submersible pumps, and other repairing work, every year.

8. After considering the oral and documentary evidence, the Tribunal found that the deceased was an income-tax assessee. He was running a pickle factory and doing contract work, in the name and style of "Jothi Enterprises". He had paid income tax for three consecutive years, 2010-11 to 2012-13 respectively. After assessing the oral and documentary evidence, adduced by the respondents/ claimants, the Tribunal determined the monthly income of the deceased as Rs. 20,000/-.

9. As per Ex.P37 - Post-mortem Certificate, the age of the deceased was 47 years. Following Sarla Verma v. Delhi Transport Corporation and Anr., reported in

2009 (2) TNMAC 1 (SC), the Tribunal fixed the multiplier, as "13". After deducting ?rd towards the personal and living expenses of the deceased, the Tribunal computed the loss of contribution to the family as Rs. 23.40,000/- (Rs. 15,000/- x 12 x 13). Added further, the Tribunal has awarded Rs. 50,000/- towards loss of consortium, Rs. 50,000/- towards loss of love and affection, Rs. 10,000/- for funeral expenses, Rs. 10,000/- for transportation and Rs. 2,000/- towards damages to clothes and articles. Altogether, the Tribunal has awarded Rs. 26,12,000/- with interest at the rate of 7.5% per annum, from the date of claim, till the date of realisation.

10. Though Mr. N. Vijayaraghavan, learned counsel appearing for the appellant-Insurance Company, assailed the quantum of compensation, on the grounds that the Tribunal has erred in fixing a higher income for the purpose of computing the loss of contribution to the family and also questioned the quantum, under other heads, considering the oral and documentary evidence adduced, extracted supra, this Court is not inclined to accept his contentions and interfere with the quantum of compensation awarded by the Tribunal. Award under other heads, is not in conformity with the judgments of the Apex Court. On the whole, the quantum of compensation, awarded by the Tribunal, cannot be said to be excessive or bonanza, warranting interference.

11. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant-Insurance Company is directed to deposit the entire award amount, with proportionate accrued interest and costs less the amount already deposited to the credit of M.C.O.P. No. 760 of 2013, on the file of the Motor Accidents Claims Tribunal, (Principal District Court), Perambalur, within a period of four weeks from the date of receipt of copy of this order. The share of the minors shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minors shall be paid to the guardian once in three months, till they attain majority. On such deposit being made, except the minors, the respondents/claimants are permitted to withdraw the same, by making necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.

