(2015) 02 MAD CK 0027

In the Madras High Court

Case No : C.M.A.(MD)No.1089 of 2013 and M.P.(MD) No.3 of 2013

United India Insurance Co. Ltd. APPELLANT

Vs

K. Patchiammal RESPONDENT

Date of Decision : 11-02-2015

Acts Referred:

Citation : (2016) 1 TNMAC 385

Hon'ble Judges : Mr. D. Hariparanthaman, J.

Bench : Single Bench

Advocate : Mr. V.R. Subramaniam, Advocate, for the Appellant; Mr. N. Durairaj, Advocate, for the Respondent Nos. 1 and 2; Ex parte, for the Respondent No. 3

Final Decision : Disposed Off

Judgement

Mr. D. Hariparanthaman, J.—The only point that is canvassed in this appeal by the learned counsel for the appellant is that the deceased was a bachelor and aged about 27 years at the time of accident and hence, the Tribunal committed an error in deducting ?rd amount towards his personal expenses. The Tribunal, in this case, arrived at Rs.3,000/- as monthly income of the deceased. Thereafter, the Tribunal deducted ? amount from the aforesaid amount towards personal expenses and based on the rest of the amount, the compensation was arrived.

2. According to the appellant, the Tribunal ought to have deducted 50% of the amount from the monthly earnings towards personal expenses and accordingly, the compensation could have been arrived.

3. On the other hand, the learned counsel for the claimants has submitted that there is no need to interfere with the award of the Tribunal, since there are more dependants, there is no infirmity in providing ?rd deduction towards personal expenses. He has strenuously contended that the deceased was aged 27 years and his monthly income was taken as Rs.3,000/- by the Tribunal. However, the employment was not proved. He has further submitted that in those

circumstances, the monthly income shall be taken as Rs.6,000/-. Therefore, he has submitted that there no need to interference with the award.

4. I have heard the submissions made by either side.

5. It is not in dispute that the deceased person was aged 27 years. It is also not in dispute that the income of the deceased was not proved. It is also not in dispute that the Tribunal took Rs. 3,000/- as monthly earnings of the deceased person. The Tribunal adopted 18 multiplier. The Tribunal awarded compensation under various heads as follows:

(i) Loss of income 2000 x 12 x 18 :

Rs.4,32,000.00

(ii) Loss of Love and affection :

Rs. 20,000.00

(iii) Funeral Expenses :

Rs. 2,000.00

(iv) Transport :

Rs. 3,000.00

Total :

Rs.4,57,000.00

6. The three Judges of the bench of the Apex Court in Reshkumari v. Madan Mohan reported in 2013(1) TN MAC 481 (SC) has categorically held in para 37 that in cases, where the parents are the only dependants of the deceased, who is a bachelor, there should be deduction of 50% amount from the earnings, to arrive at the compensation. In the normal course, the award required interference and it should be reduced accordingly.

7. However, as rightly contended by the learned counsel for the claimants, the Tribunal fixed the monthly salary of the deceased at Rs.3,000/- instead of fixing at Rs.6,000/-. In the judgment relied on by the learned counsel for the claimants in M.Sengabagam v. V. Vinod KUmar reported in 2013(2) TN MAC 450(DB), it was categorically held that in the absence of proving of employment, the monthly salary shall be fixed at Rs. 6,000/-. It was a case, wherein, the accident took place on 28.12.2008, while in this case, the accident took place on 30.06.2008 Hence, there is much force in the submission made by the learned counsel for the claimants to take the monthly salary at Rs.6,000/-. If monthly salary is taken as Rs.6,000/- and 50% deduction is made towards personal expenses and the compensation is arrived thereafter, the loss of earning alone would come to Rs.6,48,000/-. On that score alone, as rightly contended by the learned counsel for the claimants, there is no necessity to interfere with the

award.

8. Now, both the learned counsel for the claimants as well as the Insurance Company would submit that the monthly earnings of the deceased may be fixed at Rs.5,000/- and 13 multiplier may be adopted and half of the amount of the monthly earnings may be deducted towards the personal expenses of the deceased.

9. Considering the submissions made on either side, this Court fixed the monthly income of the deceased at Rs.5,000/- per month and half of the amount has been deducted towards his personal expenses and 13 multiplier has been adopted. Thus, the loss of income would be arrived at Rs.3,90,000(Rs. 5,000 x 12 x 13 x ?).

10. Furthermore, as rightly contended by the learned counsel for the claimants, only Rs.20,000/- was awarded towards love and affection and it is a meagre one. Both the claimants are the father and mother of the deceased person. They lost their son at the age of 27 years. The Division Bench of this Court in M. Sengabagam v. V.Vinod KUmar reported in 2013(2) TN MAC 450(DB) relied on by the learned counsel for the claimants provides for Rs. 1,00,000/- towards love and affection. However, this Court is inclined to enhance the compensation towards love and affection from Rs.20,000/- to Rs.50,000/-. Likewise, this Court is also inclined to enhance the compensation towards Funeral and Transport from Rs.2,000/- to Rs.25,000/- and from Rs.3,000/0 to Rs.5,000/- respectively.

11. Accordingly, I am of the view that the claimants are entitled the modified award of compensation as follows:

(i) Loss of income (5000 x 12 x 13 x 1/2) :

Rs.3,90,000.00

(ii) Love and Affection :

Rs. 50,000.00

(iii) Funeral :

Rs. 25,000.00

(iv) Transport :

Rs. 5,000.00

Total :

Rs.4,70,000.00

12. The Tribunal has already awarded Rs.4,57,000/- as compensation. Now, this Court has enhanced the same to Rs. 4,70,000/- and the balance compensation is Rs.13,000/- and the same is rounded to Rs.15,000/- (Rupees fifteen thousand). The respondent Corporation shall deposit the enhanced amount of compensation

i.e. Rs.15,000/-, with interest at 7.5% per annum from the date of petition, within a period of six weeks from the date of receipt of a copy of this order. The claimants are permitted to withdraw entire amount, including the amount that is already lying in the deposit to the credit of M.C.O.P.No.386 of 2008 on the file of the Motor Accidents Claim Tribunal (Subordinate Judge), Palani.

13. The appeal is disposed of with above terms. No costs. Consequently, connected miscellaneous petition is closed.

