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Subbammal and Others Vs. Thirumoorthy and Others

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Court : Chennai

Decided On : Sep-26-2012

Judge : P. Devadass

Appeal No. : C.M.A.No.3247 of 2007

Appellant : Subbammal and Others

Respondent : Thirumoorthy and Others

Advocate for Pet/Ap. : For the Petitioners: N.Manokaran, Advocate. For the Respondents: R3, K.Padmanabhan, Advocate.

Judgement :

(PRAYER:- Appeal against the judgment and decree dated 18.08.2007 made in MCOP No.214 of 2007 on the file of the Motor Accidents Claims Tribunal (Additional District Judge, Fast Track Court No.I), Erode.)

The appellants are the dependents of one Pappusamy, who died in a road accident, for whose death, the Tribunal had awarded them Rs.3,74,200/-.

2. Learned counsel for the appellants contended that since there are 4 dependents, the Tribunal ought not to have deducted 1/3 from the income of the deceased. On the whole, the Tribunal had awarded them less compensation.

3. On the other hand, the learned counsel for the Insurance Company contended that the Tribunal had taken into account all the relevant factors and awarded them proper compensation.

4. The deceased died when he was 58 years old. The Tribunal had adopted the multiplier '8'. It had assessed his income at Rs.5,581/- p.m. From that, it had deducted 1/3 and took the balance to assess loss of dependency.

5. In SMT.SARALA VERMA and OTHERS Vs. DELHI TRANSPORT CORPORATION and ANOTHER [2009 (2) TN MAC 1 (SC)], the Hon'ble Apex Court held that, in case the dependents are 4 in numbers, the deduction towards pleasure and other expenses from the income of the deceased should be . So, in the facts and circumstances, only of the amount shall be deducted from the income of the deceased. Thus, the loss of dependency is determined at Rs.4,01,856/- (Rs.5,581 - x 12 x 8).

6. The appellants are the near and dear ones of the deceased. Loss of love and affection of the deceased to them is immeasurable. However, for such a loss, they have to be granted some reasonable monetary compensation. Under this head, put together, the Tribunal had granted them only Rs.10,000/-. In the facts and circumstances, it is not correct. Thus, under this head, each of them is awarded Rs.10,000/-. In other respects, we are not interfering with the award of the Tribunal.

7. In the result, the amount awarded by the Tribunal is modified. The appellants are awarded a total compensation of Rs.4,49,000/- with interest @ 7.5% p.a. from the date of filing of the claim petition till deposit. Within four weeks from the date of receipt of a copy of this Judgment, the third respondent shall deposit the entire compensation amount, less amount, if any, already deposited. On such deposit, the appellants are permitted to withdraw their share of amount as allocated by the Tribunal, less amount, if any, already withdrawn. This Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

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