

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2015

CORAM

THE HON'BLE MR. JUSTICE S.MANIKUMAR  
and  
THE HON'BLE MR. JUSTICE M. VENUGOPAL

C.M.A. No.2087 of 2015  
M.P.No.1 of 2015

M/s.Reliance General Insurance Co. Ltd.,  
Chennai. .. Appellant/2<sup>nd</sup> Respondent

vs

1. D.Sumathi ...1<sup>st</sup> Respondent/Claimant

2. S.Gokulnivas ... 2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent

Appeal against the fair and decretal order dated 27.02.2015 passed in M.C.O.P.No.5396 of 2011, on the file of the Motor Accidents Claims Tribunal (V Court of Small Causes), Chennai.

For Appellant ... Mr.N.Vijayaraghavan

JUDGMENT

(Judgment of the Court was delivered by S.MANIKUMAR, J.)

Challenge in this appeal filed by M/s.Reliance General Insurance Co. Ltd., Chennai, is to the quantum of compensation of Rs.16,20,000/-, with interest, at the rate of 7.5% per annum, from the date of claim, till the date of deposit, awarded to the mother of the deceased. According to her, at the time of accident, the deceased, aged 28 years, stated to be a driver, under PW.3, S.Balasubramanian, retired Chief Engineer of Poomphuhar Shipping Corporation Ltd., earned Rs.10,000/- per month.

2. Material on record discloses that on 03.04.2011, when the deceased was riding a motorcycle, bearing Registration No.TN 22 X 9099, on Chennai-Bangalore National Highways, from East to West, a TATA Indica Car, bearing Registration No.TN 22 BE 6175, insured with the appellant-Insurance Company, driven in a rash and negligent manner, by its driver, dashed against the motorcycle, he sustained injuries and died on the spot. In this regard, a case in Cr.No.215 of

2011, has been registered, against the driver of the Car, on the file of O-1, Sriperumbudur Police Station.

3. Before the Claims Tribunal, mother of the deceased, examined herself as PW.1 and PW.2 is stated to be an eye-witness. Documents, Ex.P1 - FIR, Ex.P2 - Insurance Policy, Exs.P3 & P11 - Post-mortem Certificate, Exs.P4 & P12 - Legal Heir Certificate, Exs.P5, P8, P13 - Death Certificates, Exs.P6 & P17 - Salary Certificate, Ex.P7 - Marriage Invitation, Exs.P9 & P10 - Birth Certificate, Ex.P14 - Driving Licence, Ex.P15 - TVS Maruthi Motors Certificate, Ex.P16 - Group Photo and Ex.P18 - Engineering Certificate, have been marked on the side of the respondent/claimant. There is no oral or documentary evidence, on the side of appellant-Insurance Company.

4. Evaluating the same, the Claims Tribunal fixed negligence on the driver of the Car, insured with the appellant-Insurance Company and quantified the compensation as Rs.16,20,000/-, with interest, at the rate of 7.5% per annum, from the date of claim, till payment.

Heard the learned counsel for the appellant-Insurance Company and perused the materials available on record.

5. As regards quantum of compensation, PW.1, mother of the deceased, has deposed that at the time of accident, the deceased, aged about 28 years, was a Senior Mechanic and driver in TVS Maruthi Company from 2006 to 2009 and she has marked Ex.P14 - Driving Licence and Ex.P15 - Salary Certificate. She has also stated that the deceased worked as Car driver, under PW.3, Mr.Subramanian, a retired Chief Engineer of Poompuhar Shipping Corporation Ltd., and marked Ex.P17 - Salary Certificate, stating that he was paying Rs.10,000/- per month along with Batta of Rs.50/- per day. Upon perusal of the documents, stated supra and considering the oral testimony of the witnesses, income of the deceased has been determined at Rs.10,000/- per month. Addition of 50% of the income, towards future prospects, has been made, based on the decision of the Apex Court in Sanjay Verma v. Haryana Roadways reported in 2014 (1) TNMAC 279 (SC). Applying '17' multiplier and after deducting 50% towards the personal and living expenses of the deceased, the Claims Tribunal has determined the loss of dependency as Rs.15,30,000/- (Rs.15,000/- x 12 x 17 x ½). As the deceased was a bachelor, aged 27 years, application of '17' multiplier and deduction of 50% towards personal and living expenses, are in terms of the decision of the Apex Court in Sarla Verma v. Delhi Transport Corporation reported in 2009 (5) LW 561.

6. The accident has occurred on 03.04.2011. 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 contended to be on the higher side, having regard to the avocation pleaded, 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.

7. Computation of loss of dependency has been done, only for 17 years. Even taking it for granted that the deceased would have married, after some time, still the contribution to the family, would have continued for a longer time. Quantum of compensation of Rs.16,20,000/-, awarded to the legal representatives of the deceased, cannot be said to be on the higher side, warranting interference.

8. 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.5396 of 2011, on the file of the Motor Accidents Claims Tribunal (V Court of Small Causes), Chennai, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondent/claimant is permitted to withdraw the same, by making necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed. Skm

Sd/-  
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal  
(V Court of Small Causes), Chennai.

+1 C.C. To MR.M.B.Gopalan, Advocate in SR.NO.52060

C.M.A.No.2087 of 2015

SV(CO)

sd : 04/11/2015

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