

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 509 of 2015

&

M.P. No. 1 of 2015

Royal Sundaram Alliance Insurance Co. Ltd.,
rep. By its Manager, No. 186/7,
Raghavendra Complex,
Wilson Garden, 1st Cross, Hosur Main Road,
Bangalore - 560 027. ...Appellant/ 2nd Respondent

Vs.

1. Anitha
 2. Sathiya Priya (Minor)
 3. Arthi (Minor)
 4. Kirthiga Devi (Minor)
 5. Kavin (Minor)
- Minors rep. By N.F./mother Anitha ...Respondents 1 to 5/ Petitioners
6. M/s. Kalyan Jewellers
Salem Private Limited,
rep. By its Manager,
No.17, Dickenson Road,
Bangalore & District. ...6th Respondent/ 1st Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 17.12.2014 passed in M.C.O.P. No. 612 of 2013 by the Motor Accidents Claims Tribunal (Special District Court), Krishnagiri.

For Appellant :: Mr.M.Krishnamoorthy

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs. 14 lakhs granted in favour of the claimants for the death of one Subramani, husband of the 1st respondent and father of respondents 2 to 5, aged about 30 years and said to have been earning Rs.7000/- per month, in the accident, which occurred on 08.07.2011.

2. Heard Mr.M. Krishnamoorthy, learned counsel for the appellant, who would submit that instead of deducting one-fourth towards "Personal Expenses", based on the size of the family of the deceased, the Tribunal, wrongly, deducted one-fifth towards "Personal Expenses" and further that, awarding of Rs.4 lakhs towards "Loss of love and affection" is on the higher side.

3. A close scrutiny of the award passed by the Tribunal would reveal that the Tribunal took only Rs.6000/- as the monthly income of the deceased and did not even add 50% towards "Future Prospects" as per the judgment of the Honourable Apex Court in Santosh Devi V. National Insurance Company Ltd. and others reported in 2012 6 SCC 421. Even if one-fourth deduction is made towards "Personal Expenses" instead of one-fifth deduction, as contended by the learned counsel for the appellant, in the event of addition of 50% towards "Future Prospects", the increase in the monthly income obtained by addition of "Future Prospects" is capable of off-setting one-fourth deduction and reduction of the amount of Rs.4 lakhs awarded towards "Loss of love and affection", while calculating the compensation payable. Therefore, even by adopting a different formula, the very same compensation amount alone could be granted. In such circumstance, instead of calculating in a different manner, this Court confirms the award passed by the Tribunal, to the tune of Rs.14 lakhs together with interest @ 7.5% per annum.

4. The appellant Insurance Company is directed to deposit the entire award amount, if not already deposited, with accrued interest and costs, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent is permitted to withdraw her share as per the ratio fixed by the Tribunal. As far as the minors' shares are concerned, the same shall be re-invested in any one of the Nationalised Banks, in interest bearing Fixed Deposit, till they attain majority. The 1st respondent is permitted to withdraw interest accruing on such deposit once in three months.

5. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs. Connected M.P. is closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

nv

To

The Motor Accident Claims Tribunal
(Spl. Dist.Court), Krishnagiri.

2. Mrs. Anitha
Subedar Medu Village
Kattinayanpalli post
Krishnagiri Taluk & District

C.M.A. No. 509 of 2015

RSY (CO)
kk 1/6



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