

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

**CMA No.620 of 2005
and M.P.No.1 of 2015**

M/s.Royal Sundaram Alliance Insurance Co. Ltd.,
Rept. By its Branch Manager
4th Floor, M Sons Arcade,
Calicut, Kerala State.

.. Appellant / 2nd Respondent

vs.

1.N.Kannan
2.K.Ananthi
3.K.Niruphan Chakrvarthi
4.K.Sinekha (Minor)
(4th respondent minor rept. By
father and next friend 1st Respondent)

.. Respondents / Petitioners

5.P.Kathar

.. 5th Respondent / 1st Respondent

Prayer :- Civil Miscellaneous Appeal filed under Section 173 of M.V. Act 1988 against the judgment and decree in MCOP No.372 of 2012 dated 31.01.2014 on the file of Motor Accidents Claims Tribunal, Principal District Court, Thiruvavur.

For Appellant : Mr.N.Vijayaraghavan

JUDGMENT

The appeal has been filed by the insurance company

challenging the compensation of Rs.9,01,000/- awarded by the tribunal for the death of one K.Ashok Kumar aged about 21 years, a labour claim to have earned a sum of Rs.12,500/- as salary including a sum of Rs.100/- per day as batta, in the accident which occurred on 08.04.2012.

2. Heard Mr.M.B.Gopalan, learned counsel appearing for the appellant / insurance company and perused the records.

3. The only question to be decided is the quantum of compensation awarded by the tribunal. The learned counsel appearing for the appellant/insurance company would submit that the deceased was a bachelor and therefore 50% of his income has to be deducted towards his personal expenses, however the tribunal had deducted only 1/3rd towards his personal expenses and therefore the said amount has to be modified accordingly. A perusal of the records would show that though Rs.9,500/- was claimed as the monthly income of the deceased, since the salary of the deceased was not proved as per Ex.P6 through proper evidence, the tribunal had determined the monthly income as Rs.6,000/-.

4. As rightly contended by the learned counsel for the

appellant, the tribunal has deducted only 1/3rd towards personal expenses of the deceased. However, no amount has been added towards future prospects and therefore the said amount which is required to be deducted by way of 50% is offset by way of non-awarding of any amount towards future prospects. Therefore, taking into consideration Rs.6,000/- as the monthly income and deducting 1/3rd towards personal expenses and adopting multiplier 18, as per the age of the deceased, Rs.8,64,000/- was rightly fixed by the tribunal under the head loss of income. Moreover, the tribunal has awarded Rs.20,000/- towards loss of love & affection, Rs.10,000/- towards loss of expectation of life, Rs.7,000/- towards funeral and transportation expenses which appears to be reasonable. Hence, in my considered opinion, the amount of compensation awarded by the tribunal at Rs.9,01,000/- alongwith interest @ 7.5% from the date of petition till the date of deposit seems to be very reasonable and hence the same is confirmed.

5. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

6. The appellant/insurance company is directed to deposit

the entire award amount alongwith interest and costs, as per the order of the tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondents/claimants 1 and 2 are permitted to withdraw the amount as per the ratio fixed by the tribunal.

13.04.2015

Index : Yes/No
rgr

To

The Principal District Court,
Motor Accident Claims Tribunal,
Thiruvavarur.

N.KIRUBAKARAN, J.
rgr

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