



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.M.A (MD) No.608 of 2014
and M.P (MD) No.1 of 2014

The Branch Manager,
United India Insurance Company Limited,
Jeeva Jothi Building,
Salai Road, Dindigul Town,
Dindigul Taluk,
Dindigul District. .. Appellant/Respondent No.2

-Vs-

1.Gandi
2.Minor Priyadarshini
3.Minor Jeevadarshini
4.Muniammal .. Respondents 1 to 4/Claimants
5.R.Ramesh Kumar .. 5th Respondent/Respondent No.1

(Minor RR 3 & 4 are rep. by their
mother and guardian of the first respondent)

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 28.01.2014 and made in M.C.O.P.No.299 of 2012 on the file of the Motor Accident Claims Tribunal (Sub Court), Veda sandur.

For Appellant : Mr.S.Royce Emmanuel
For RR 1 to 3 : Mr.SP.Vijay Nivas

For R - 4 : No appearance

For R - 5 : No appearance

JUDGMENT

The quantum of award dated 28.01.2014 and made in the claim petition in M.C.O.P.No.299 of 2012 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Veda sandur has been challenged in this Civil Miscellaneous Appeal which is filed under Section 173 of the Motor Vehicles Act, 1988 by the United India Insurance Company Limited, who is the second respondent in the claim petition. The respondents 1 to 4 herein are the claimants, whereas, the fifth respondent herein is the first respondent in the claim petition (owner of the vehicle).

2. The claimants, who are the wife, minor children and mother of the deceased/Balasubramani, had moved the Motor Accidents Claims Tribunal with the claim petition in M.C.O.P.No.299 of 2012 claiming a sum of Rs.20,00,000/- towards the loss of death of the said Balasubramani in a road traffic accident said to have been taken place on 26.03.2012 at 04.15 p.m., at Seelapadi bypass Junction, Dindigul to Tiruchirappalli bypass road involving two vehicles viz., TVS Appachi bearing Registration No.TN-57-M-7823 and a lorry bearing Registration No.TN-57-AE-1616 belonging to the fifth respondent/first respondent. The fifth respondent herein, who is the first respondent in the claim petition remained ex-parte. The appellant/Insurance Company alone had contested the claim.

3. The first claimant, who is the wife of the deceased, was examined herself as P.W.1. One Ramesh was examined as P.W.2. During the course of their cross-examination, Exs.P.1 to P.8 were marked. On the other hand, neither oral nor documentary evidence was adduced in on behalf of the Insurance Company.

4. On appreciation of the evidences both oral and documentary, the claims Tribunal had proceeded to award a total compensation of Rs.12,97,240/- under the following heads:-

Sl.No.	Heads of the award	Amount awarded
1.	Loss of dependency of the family	Rs.10,32,240/-
2.	Loss of consortium in respect of the first claimant	Rs. 1,00,000/-
3.	For care and maintenance of the minor children	Rs. 1,00,000/-
4.	Loss of love and affection to the first claimant	Rs. 20,000/-
5.	Loss of love and affection for the claimants 2 and 3 (minor children each Rs.10,000/-	Rs. 20,000/-
6.	Loss of love and affection for the fourth claimant (mother of the deceased)	Rs. 5,000/-
7.	For funeral expenses	Rs. 20,000/-
	Total	Rs.12,97,240/-

5. Insofar as the amount of Rs.1,00,000/- which was granted towards the care and maintenance of the minor children and another sum of Rs.20,000/- which was granted towards the loss of love and affection to

the first claimant alone have been vehemently objected to by Mr.S.Royce Immanuel, learned counsel appearing for the appellant/Insurance Company.

6. In this connection, this Court would like to point out that already a sum of Rs.1,00,000/- has been granted to the first claimant towards the loss of consortium, as her husband had passed away in her tender age. When such being the case, another amount of Rs.20,000/- granted towards the loss of love and affection to the first claimant is disproportionate and liable to be deleted. Similarly, already the Tribunal had awarded a sum of Rs.10,32,240/- towards the loss of dependency of the family. Under this circumstance, granting of another sum of Rs.1,00,000/- towards the care and maintenance of the children seems to be exorbitant and fanciful. Therefore, the aforesaid sum of Rs.1,00,000/- as well as Rs.20,000/-, totalling Rs.1,20,000/-, is to be deducted from the amount of Rs.12,97,240/-.

7. But, this Court finds that the loss of love and affection towards the minor children to the extent of Rs.10,000/- each is insufficient and therefore, under this circumstance, this Court is of view that a sum of Rs.15,000/- for each child can be granted instead of Rs.10,000/- each. Accordingly, the compensation granted by the Tribunal under this head is enhanced to a sum of Rs.15,000/- each. Therefore, the minor claimants 2 and 3 are each entitled to get a sum of Rs.15,000/- towards the loss of love and affection.

8. The total compensation awarded by the Tribunal is Rs.12,97,240/-. As afore-stated, a sum of Rs.1,20,000/- is to be deleted. The minor claimants 2 and 3 are each entitled to get a sum of Rs.15,000/- towards love and affection instead of Rs.10,000/- each, totalling to a sum of Rs.30,000/- and the modified award amount as follows:-

Sl.No.	Heads of the award	Amount awarded
1.	Loss of dependency of the family	Rs.10,32,240/-
2.	Loss of consortium in respect of the first claimant	Rs. 1,00,000/-
3.	Loss of love and affection for the claimants 2 and 3 (minor children each Rs.15,000/-	Rs. 30,000/-
6.	Loss of love and affection for the fourth claimant (mother of the deceased)	Rs. 5,000/-
7.	For funeral expenses	Rs. 20,000/-
	Total	Rs.11,87,240/-

Therefore, the award of the Tribunal has been reduced to Rs.11,87,240/- from Rs.12,97,240/-.



9. Accordingly, the Civil Miscellaneous Appeal is partly allowed. It is brought to the notice of this Court that already the appellant/Insurance Company has deposited a sum of Rs.10,00,000/- to the credit of the claim petition in M.C.O.P.No.299 of 2012 on the file of the Motor Accident Claims Tribunal. The appellant/Insurance Company is, therefore, directed to deposit the remaining balance amount ie., Rs.1,87,240/- along with proportionate interest and costs at the rate of 7.5% per annum within a period of four weeks from the date of receipt of a copy of this order. On making such deposit, the claimants 1 and 4, who are the major claimants, are at liberty to withdraw their respective shares, as per the ratio of apportionment made by the Tribunal, with proportionate accrued interest and costs without filing any formal petition seeking permission. The Tribunal is directed to deposit the share of the minors-second and third respondents in any one of the Nationalised Banks, in a Fixed Deposit scheme, till they attain majority. The first respondent, mother and guardian of the minor claimants are permitted to withdraw the accrued interest from the above said minors' deposit once in three months directly from the bank, only for the welfare of minors. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub AssistantRegistrar

To
The Sub Judge,
Motor Accident Claims Tribunal,
Vedasandur.

+2cc to Mr.S.P.Vijay Nivas, Advocate SR.No.70875

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