

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.No.1435 of 2016
and
C.M.P.No.11033 of 2016

Royal Sundaram Alliance Insurance Company
Limited, having its registered office at
21, Pattulos Road,
Chennai - 600 002 .. Appellant/Respondent No.2

Vs.

1.G.Sharmiladevi
2.Minor G.Kanishka
3.Minor G.Dharanitharan
[R2 and R3 rep. by next friend, guardian & Mother R1]
4.Saraswathi
5.P.Thangavel ... Respondents 1 to 5/ Petitioner 1 to 5
6.G.Murugesan ... Respondent No.6/Respondent No.1

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988, against the judgment and decree of
the Motor Accident Claims Tribunal (Special District Court),
Erode dated 17.3.2016 made in MCOP No.287 of 2013.

For Appellant: Mr.S.Manohar
For Respondents: Mr.R.Nalliyappan for R1
Mr.N.Stalin for R6
R2,3,4 & 5 served NA

JUDGMENT

(made by S.MANIKUMAR, J.)

Quantum of compensation of Rs.15,02,985/-, with interest, at
the rate of 7.5% from the date of claim till deposit, awarded to
the legal representatives of the deceased is the only challenge
in this civil miscellaneous appeal. Therefore, there is no need
to advert to the aspect of negligence and liability.

2. Short facts leading to the appeal are that, in the accident which occurred on 11.03.2015, a 34 year old man died. According to the legal representatives, by doing wholesale business in plantains, real estate brokerage and as driver, the deceased earned Rs.30,000/- per month. Wife, two minor children and aged parents of the deceased, filed MCOP No.287/2015 on the file of the Motor Accident Claims Tribunal (Special District Court), Erode, claiming compensation of Rs.30,00,000/-. Though, it was claimed that the deceased earned Rs.30,000/- per month, as no document including his driving licence was produced, the Tribunal has taken into account Rs.6,500/- per month, as notional income. As the age of the deceased was less than 50 years, added 50% towards future prospects. Thus determined a sum of Rs.9,750/- as income, for the purpose of computing the loss of contribution to the family. Thereafter, as the number of claimants was five, deducted 1/4th towards the personal and living expenses of the deceased, applied 15 multiplier applicable to the age of the deceased, and computed the loss of contribution to the family as Rs.13,16,160/- [Rs.7,312 x 12 x 15 = Rs.13,16,160/-].

3. That apart, the Tribunal has awarded a sum of Rs.75,000/- as consortium to the first respondent/wife, Rs.10,000/- each, under the head love and affection to the wife, minor children and aged parents of the deceased, Rs.25,000/- towards funeral expenses, Rs.11,500/- under the head transportation, Rs.15,325/- under the head, medical expenses and Rs.10,000/- for pain and suffering, as he died on the next day of the accident. Altogether, the Tribunal has awarded a sum of Rs.15,02,985/- as compensation, with interest, at the rate of 7.5% per annum from the date of claim till deposit.

4. Being aggrieved, the appellant herein/Royal Sundaram Alliance Insurance Co. Ltd. is on appeal, with a prayer to set aside the award. Though supporting the prayer sought for, Mr.S.Manohar, learned counsel for the appellant submitted that the Tribunal has fixed a higher sum of Rs.6,500/- as monthly income, and erred in adding 50% towards future prospects and thus awarded an excess compensation, under the head loss of contribution to the family, this court is not inclined to accept the said contention for the reason that to provide food, shelter, clothing and to meet out expenses for basic necessities, one requires a reasonable income. Further, statutory charges like water, electricity and other charges, are

on the increase. Needles to state the cost of essential commodities is not static. Cost of transportation is on the rise. In the case on hand, the deceased is survived by a family, comprising of his aged parents, wife and two minor children and considering the escalation of expenditure on the above, we are of the view that, the Tribunal ought to have taken a higher income, instead of Rs.6,500/- per month, as notional income. Addition of 50% of the income, towards future prospects, cannot be said to be faulty.

5. Further, perusal of the award shows that the Tribunal has awarded a lesser compensation of Rs.75,000/- under the head consortium to the wife. As per the decision of the Hon'ble Apex Court in *Rajesh & Others Vs. Rajbir Singh & Others* reported in (2013) 9 SCC 54 = 2013 (2) TN MAC 55 (SC), it should be at least Rs.1,00,000/-. Further, the Tribunal has awarded Rs.10,000/- each only towards loss of love and affection to the wife, minor children and aged parents. There is no award for conventional damages. Though a sum of Rs.10,000/- awarded under the head, pain and suffering, to the claimants cannot be justified, but, considering the lesser and failure to award compensation under legitimate heads, the said sum can be adjusted. The overall quantum of compensation awarded to the legal representatives cannot be said to be on the higher side, warranting interference. Hence the civil miscellaneous appeal is liable to be dismissed.

In the result, the appeal is dismissed, confirming the judgment and decree passed by the Motor Accident Claims Tribunal (Special District Court), Erode dated 17.3.2016 made in MCOP No.287/2015. Learned counsel for the appellant has submitted that the appellant has already deposited 50% of the award amount to the credit of the said MCOP. Hence, the appellant herein is directed to deposit the balance 50% of the award amount along with interest, at the rate of 7.5% per annum with cost to the credit of MCOP No.287/2015 on the file of the Motor Accident Claims Tribunal (Special District Court), Erode. The Tribunal is further directed to affix a summary of this judgment in the Notice Board of the Tribunal mentioning the name of the parties to MCOP No.287 of 2015, and the disposal of the appeal filed by Royal Sundaram Alliance Insurance Co. Ltd.. The Tribunal is further directed to disburse the compensation amount, only after due verification and identity of the claimants/respondents herein. We wish to state that, there should be strict

compliance. Shares of the minor claimants/respondents, shall be deposited in to a Nationalised bank under Fixed Deposit scheme in the name of the minor claimants, till they attaining majority, and the interest accrued on the fixed deposits, may be withdrawn by mother, once in three months. Deposit should be made within four weeks from the date of receipt of a copy of this judgment. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.Motor Accident Claims Tribunal
(Special District Court),
Erode.

2.The Section Officer,
VR Section, High Court, Madras-104.

+1cc to M/S.R.Nalliyappan, Advocate Sr.57096

+1cc to M/Sd.S.Manohar, Advocate Sr.57060

C.M.A.No.1435 of 2016

rsk[col]
srg 22/11/2016

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