

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2016

C O R A M

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.3331 of 2014
and M.P.No.1 of 2014

M/s.New India Assurance Co.Ltd
No.45, Moore Street, 5th Floor
Chennai-600 001 ...Appellant/2nd Respondent

Vs

1.Tmt.Malarvizhi
2.Minor.M.Dilli Babu
Minor rep. By his mother
and next friend Malarvizhi
3.Selvaraj
4.Kannammal
5.S.P.Ravi ... Respondents/Petitioner
Ist Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1989, against the order and decree passed in M.C.O.P.No.873 of 2012 on 24.03.2014 on the file of the Motor Accidents Claims Tribunal (II Judge) Small Causes Court, Chennai.

For appellant ... Mr.J.Chandran
For respondents ... Mr.K.Varadha Kamaraj
for R1 to R4.

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR, J.)

The New India Assurance Company is on appeal challenging the award dated 24.03.2014 passed in M.C.O.P.No.873 of 2012 on the file of the Motor Accidents Claims Tribunal (II Judge, Small Causes Court), Chennai.

2. It is a case of fatal accident. On 01.01.2012, at about 08.30 hours, while the deceased Meganathan was riding in the Motor cycle bearing Reg.No.TN-21-AW-6788 at Thirukazhukundran to Sadras Salai, Kanchipuram District, a TATA City Ride Van bearing Reg.No.TN-19-E-4226, driven by its driver, in a rash and negligent manner, hit the Motor cycle driven by Meganathan and

due to the accident, Meganathan died on the spot. The claimants, who are wife, son, father and mother of the deceased have filed a claim petition before the Motor Accidents Claims Tribunal, Chennai, for compensation in a sum of Rs.17,00,000/-. According to the claimants, the deceased was working as Painter with M/s.Indira Builders, Thiruvanniyur, Chennai and was earning a sum of Rs.15,000/- per month.

3. The Tribunal based on the evidence let in on both sides, held that the Insurance Company and S.P.Ravi/5th respondent herein are jointly and severally liable to pay compensation to the claimants. On such finding, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependants of the deceased by adopting multiplier 17	Rs.81,000 x 17 =Rs.13,77,000/-
2	Funeral expenses	Rs. 25,000/-
3	Loss of companionship	Rs. 50,000/-
4	Loss of love and affection towards 1 st claimant (Rs.50,000/-) and towards 2 nd and 3 rd claimants	Rs. 50,000/- Rs. 20,000/-
5	Loss of Expectation of life	Rs. 1,00,000/-
	Total	Rs. 16,22,000/-

4. The only serious objection raised by the learned counsel for the appellant-Insurance Company is with regard to the grant of Rs.1,00,000/- towards loss of expectation of life to the claimants. Insofar as the compensation towards Loss of Pecuniary benefits and other conventional heads are concerned, there was no objection by the appellant's counsel and we find the same are just and reasonable.

5. Heard the learned counsel for the respondents 1 to 4/claimants on the above submissions of the learned counsel for the appellant.

6. Taking into consideration the compensation granted towards pecuniary benefits and other conventional heads, the compensation granted under the head loss of expectation of life is deleted and we sustain the other amounts granted by the Tribunal and the modified award as follows:-

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this Court
1	Loss of pecuniary benefits to the dependants of the deceased by adopting multiplier 17	Rs.81,000 x 17 =Rs.13,77,000/-	Rs.81,000 x 17 =Rs.13,77,000/-
2	Funeral expenses	Rs.25,000/-	Rs. 25,000/-
3	Loss of companionship	Rs.50,000/-	Rs. 50,000/-
4	Loss of love and affection towards 1 st claimant (Rs.50,000/-) and towards 2 nd and 3 rd claimants (Rs.20,000/-)	Rs.50,000/- Rs.20,000/-	Rs. 50,000/- Rs. 20,000/-
5	Loss of Expectation of life	Rs.1,00,000/-	---
	Total	Rs.16,22,000/-	Rs.15,22,000/-

There is no serious objection with regard to grant of interest at 7.5% per annum.

7. Accordingly, this Civil Miscellaneous Appeal is partly allowed as follows:

- (i) The award of the Tribunal is reduced to Rs.15,22,000/- from Rs.16,22,000/-;
- (ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.
- (iii) The award amount is apportioned to the claimants 1 and 2 as per the proportion directed by the Tribunal and claimants 3 and 4 will get Rs.50,000/- each.
- (iv) This court, by order dated 01.12.2014, directed the appellant/Insurance Company to deposit the entire award and thereafter, by order dated 27.03.2015, this court permitted the claimants 1, 3 and 4 to withdraw 50% of the award amount. Thus, the claimants are permitted to withdraw the balance award amount as apportioned by the Tribunal.
- (v) The appellant Insurance Company is at liberty to withdraw the excess amount, if any, deposited before the Tribunal.
- (vi) There will be no order as to costs in this appeal.

(vii) Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Motor Accidents Claims Tribunal
(II Judge) Small Causes Court, Chennai.

+1 cc to Mr.K.Varadhakamaraj Advocate sr.11885

C.M.A.No.3331 of 2014

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