

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.10.2016

Coram:-

The Hon'ble Mr. Justice M.DURAI SWAMY
and
The Hon'ble Mr. Justice R.SURESH KUMAR

C.M.A.No.3013 of 2009 and
M.P.No.1 of 2009

The United India Insurance
Company Limited,
Chander Plaza
First Floor, No.48, Arcot Road
Saligramam, Chennai 600 093. ...Appellant/3rd respondent

vs.

1. Marathal
2. Ramasamy
3. D.Kartheeban
4. Dilliganesh

...respondents/Petitioner/
respondent 1&2

(Respondents 3 & 4 were
set exparte in lower Court)

C.M.A. filed against the judgment and decree dated
03.03.2008 made in M.C.O.P.No.23 of 2006 on the file of the
Motor Accident Claims Tribunal, Chief Judicial Magistrate,
Coimbatore.

For Appellant : Mr.T.Ravichandran
For Respondents : Mr.K.Sudhakar for
M/s G.B.Saravana Bhavan (R1&2)
R3&4 exparte

J U D G M E N T

(Judgement of the court was delivered by M.DURAI SWAMY, J.,)

Challenging the award dated 03.03.2008 passed in
M.C.O.P.No.23 of 2006 on the file of the Motor Accident
Claims Tribunal, (hereinafter referred to as "the Tribunal"),
Chief Judicial Magistrate, Coimbatore, the Insurance Company
has filed the above appeal.

2. The claimants who are the parents of the deceased Thangarasu have filed a claim petition in M.C.O.P.No.23 of 2006, claiming a total compensation of Rs.44,95,000/- for the death of the deceased in a road accident that had occurred on 26.06.2005. The deceased was aged 26 years at the time of accident and he was working as a technician in Hyundai Motor India Limited, Chennai. According to the claimants, the deceased was a permanent employee of the Company.

3. Before the Tribunal, on the side of the claimants, 3 witnesses were examined and 9 documents, Exs.A-1 to A-9 were marked and on the side of the respondents neither any witness was examined nor any document was marked.

4. The Tribunal after taking into consideration the oral and documentary evidences let in by the claimants, awarded a total compensation at Rs.26,64,000/- together with interest @ 7.5 % p.a. Challenging the said award, the Insurance Company has filed the above appeal.

6. Heard Mr.T.Ravichandran, learned counsel appearing for the Insurance company and Mr.K.Sudhakar, learned counsel appearing for the claimants.

7. The only contention raised by the learned counsel for the appellant is that the multiplier adopted by the Tribunal is not correct and the Tribunal should have followed the multiplier as held in Sarla Verma's case reported in (2009) 6 SCC 121. The learned counsel appearing for the claimants submitted that since the claimants are entitled for just compensation, the Tribunal could have awarded more compensation for funeral expenses and towards love and affection.

8. The Tribunal fixed the monthly income of the deceased at Rs.26,000/- and by deducting 1/3rd towards his personal expenses, has taken Rs.17,000/- as contribution to the family. Applying multiplier of 13, the Tribunal awarded compensation of Rs.26,52,000/- towards loss of earning. Apart from that, the Tribunal also awarded a sum of Rs.10,000/- towards love and affection and a sum of Rs.2,000/- towards funeral expenses.

9. In the Judgment reported in 2009 (6) SCC 121 (Sarala Verma (Smt.) and others vs. Delhi Transport Corporation and another), the Hon'ble Apex Court has held that even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant and 50% would be treated as personal and living expenses of the Bachelor and 50% as the contribution to the family. In the case on hand, the Tribunal deducted 1/3rd towards personal expenses. Applying the ratio laid down by the Hon'ble Apex Court referred to above, if 50% is taken as the contribution to the family, the

amount would come to Rs.13,000/- per month for the contribution to the family. As per the Sarla Verma's case, the proper multiplier would be 17, since the deceased was aged 26 years at the time of accident. Applying 17 as multiplier, the total compensation will come to Rs.13,000/- x 17 x 12 = Rs.26,52,000/-. If the compensation is calculated as per the Sarla Verma's case, the total compensation towards loss of earning comes to Rs.26,52,000/-, which is the amount awarded by the Tribunal below. Therefore, we do not find any reason to interfere with the award of Rs.26,52,000/- towards loss of earning.

10. So far as the compensation awarded under the head "funeral expenses" is concerned, we are of the considered view that the award of Rs.2,000/- is very much on the lower side and therefore the same can be enhanced to Rs.10,000/-. Similarly, the award of Rs.10,000/- towards loss of love and affection can be increased to Rs.25,000/- from Rs.10,000/-.

11. Accordingly, we increase the award of Rs.2,000/- towards funeral expenses to Rs.10,000/- and the award of Rs.10,000/- towards love and affection is increased to Rs.25,000/-.

12. The modified award amount of the Tribunal would be as follows:-

Sl. No.	Head	Amount granted by the Tribunal (Rs.)	Amount granted by this Court (Rs.)
1	Loss of earning capacity	26,52,000/-	26,52,000/--
2	Funeral Expenses	2,000/-	10,000/-
3	Love and Affection	10,000/-	25,000/-
	Total	26,64,000/-	26,87,000/-

13. In all, the claimants are entitled to a total compensation of Rs.26,87,000/- together with interest at the rate of 7.5% p.a.

14. Accordingly, the Civil Miscellaneous Appeal is disposed of in the following terms:-

- (i) The award of the Tribunal is enhanced from Rs.26,64,000/- to Rs.26,87,000/-
- (ii) The interest granted at 7.5% p.a. is confirmed.

(iii) Pursuant to the interim order granted by this Court in M.P.No.1 of 2009 on 04.11.2009, the Insurance Company has deposited a sum of Rs.20,00,000/- to the credit of M.C.O.P.No.23 of 2006 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Coimbatore and this Court has also permitted the claimants 1 and 2 to withdraw a sum of Rs.10,00,000/- and the remaining sum of Rs.10,00,000/- was directed to be kept in a Fixed Deposit in the State Bank of India. Since we have increased the compensation from Rs.26,64,000/- to Rs.26,87,000/-, we direct the Insurance Company to deposit the balance amount awarded by this Court within a period of four weeks from the date of receipt of a copy of this Judgement and on such deposit being made, the claimants are permitted to withdraw the entire award amount now modified by this Court as apportioned by the Tribunal, along with proportionate interest less the amount already withdrawn by filing necessary applications before the Tribunal.

With these observations, the award passed by the Tribunal is modified as stated above. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
Chief Judicial Magistrate, Coimbatore.

2. The Record Keeper
VR. Section, High Court, Madras.

+ 1 cc to Mr.T. Ravichandran, Advocate SR.61446
+ 1 cc to Mr.G.B. Saravanan Bhavan, Advocate SR.61399

C.M.A.No.3013 of 2009

RJ(CO)
Eu 25.11.16