

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.06.2017

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice M.Govindaraj

Civil Miscellaneous Appeal No.1155 of 2016
and
C.M.P.No.8729 of 2016

Royal Sundaram Alliance Insurance
Company Limited
4-A, 4th Floor, Thirumalai Towers
No.723, Avanashi Road, Coimbatore.

... Appellant/3rd Respondent

Vs

1.Gracy
2.Monsi
3.Benzy
4.Navamani
5.Murugan
6.Kumaresan

... Respondents/
Petitioner & Respondents 1,2

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 15.12.2015, passed in M.C.O.P.No.1483 of 2014, by the Motor Accident Claims Tribunal (I Additional District Court), Tiruppur.

For Appellant : Mr.N.Vijayaraghavan
For Respondents: Ms.R. Poornima for R1 to R4.

J U D G M E N T
(Made by S.Manikumar, J)

Challenge in this appeal is to the judgment and decree made in M.C.O.P.No.1483 of 2014, dated 15.12.2015, on the file of the Motor Accident Claims Tribunal (I Additional District Court), Tiruppur.

2. In the accident, which occurred on 19.07.2014 at 5.00 p.m on Coimbatore to Avinashi Road, in front of Mudaliyarpalayam Pirivu near Neela Bakery, sole breadwinner of the respondents 1 to 4/claimants, died. Legal representatives, wife, two daughters, and mother of the deceased, filed M.C.O.P. No.1483 of 2014 before the Motor Accident Claims Tribunal (I Additional District Court), Tiruppur.

3. On evaluation of pleadings and evidence, the Tribunal awarded compensation of Rs.14,44,275/- with interest at the rate of 7.5% per annum from the date of claim till realisation and costs, as hereunder:

Loss of dependency	: Rs.13,09,275/-
Loss of consortium	: Rs. 50,000/-
Funeral Expenses	: Rs. 25,000/-
Loss of love and affection:	Rs. 50,000/-
Transport Expenses	: Rs. 10,000/-
Total	: Rs.14,44,275/-

4. Though Mr.N.Vijayaraghavan, learned counsel for the appellant/insurance company, submitted that at the time of accident when the deceased was above 50 years of age the Tribunal failed to appreciate that computation for future prospects at 15% cannot be granted, and no abnormal circumstances justifying the same, have been made out, we are not inclined to accept the said contention.

5. The said contention of the learned counsel for the appellant/insurance company, cannot be accepted, in view of the decision of the Hon'ble Supreme Court in Rajesh v. Rajbir Singh reported in (2013) 9 SCC 54, wherein at para 12, held thus:

"in case of self-employed persons or persons with fixed wages, the actual income of the deceased must be enhanced for purpose of computation of compensation: (i) by 50% where his age was below 40 yrs, (ii) by 30% where he belonged to age group of 40 to 50 yrs, and (iii) by 15% where he was between age group of 50 to 60 yrs - However, no such addition/enhancement permissible where deceased exceeded the age of 60 yrs - For the above purpose, reiterated, actual income would mean income after paying tax, if any."

Hence, there is no error on the side of the Tribunal in applying 15% future prospects for fixing the monthly income.

6. Further, the Tribunal has awarded a sum of Rs.50,000/- under the head loss of consortium to wife and Rs.50,000/- under the head loss of love and affection to the Legal representatives. As per the decision of Apex Court in Rajesh's case, cited supra, a sum of Rs.1,00,000/- can be awarded under the head loss of consortium and a sum of Rs.50,000/- each, under the head loss of love and affection to the daughters and

mother. But the Tribunal has awarded lesser compensation under the said heads. Further, daughters of the deceased have not only lost the love and affection but also, the guidance from their father. Mother of the deceased has also lost her son. From the material on record, it could be deduced that the two daughters were also unmarried. The Tribunal has not awarded any amount under the head Loss of Estate. Overall quantum of compensation awarded to the legal representatives, cannot be said to be on the higher side, warranting interference.

7. In the light of the above discussion, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

8. It appears that, on 08.06.2016, this court has directed the appellant/insurance company, to deposit 50% of the award amount before 01.07.2016 and stay was granted till that date. As the appellant/insurance company, has not complied with the conditional order, on 04.07.2016, a Division Bench of this court vacated the interim order. In view of the same, appellant/Royal Sundaram Alliance Insurance Company Limited is directed to deposit, if not deposited, the entire award amount with proportionate accrued interest and costs, less the statutory deposit to the credit of M.C.O.P.No.1483 of 2014, dated 15.12.2015, on the file of the Motor Accident Claims Tribunal (I Additional District Court), Tiruppur, within a period of four weeks from the date of receipt of a copy of this judgment. Tribunal is directed, to disburse the amount only on proper identification and proof.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

ASR

To

The Motor Accident Claims Tribunal
(I Additional District Court), Tiruppur.

Copy to

The Section Officer
V.R Section
High Court, Madras.

+1 CC to Ms. Poornima, Advocate sr 42043.

C.M.A.No.1155 of 2016

sp (21/08/2017)



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