

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 31.01.2017

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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.151 of 2017 &
C.M.P.No.1031 of 2017

Royal Sundaram Alliance Insurance Company Limited
Office at Sundaram Towers
No.45& 46, Whites Road
Chennai - 600 014. .. Appellant/3rd Respondent

Versus

1.Vellaiyammal (Vellaiyammal)
2.Sengodan
3.Periyasamy
4.Rajathi ... Respondents 1 to 4 /
petitioners

5.Eswaran
6.A.N.Jaganathan ... Respondents 5 & 6/
Respondents 1 & 2

Prayer:Appeal filed under Section 173 of the Motor Vehicles Act,
1988 against the Judgment and Decree dated 26.08.2015 made in
M.C.O.P.No.424 of 2010 on the file of the Motor Accident Claims
Tribunal, IV Additional District Court, Erode.

For appellant :Mr.N.Vijayaraghavan
For respondents:Mr.Ma.Pa.Thangavel

J U D G M E N T

Challenging the quantum of compensation awarded by the
Claims Tribunal, in M.C.O.P.No.424 of 2010,dated 26.08.2015, as
excessive, the Insurance Company has filed this Civil
Miscellaneous Appeal.

Brief Facts:

2. On 21.05.2010 at about 01.30 p.m. while the deceased
Muthusamy was sitting along with the driver in the front portion
of the Tempo bearing Regn.No.TN 33 D 2450, the lorry, bearing
Regn.No. TN-02-R-4792 driven by the 5th respondent/driver, in a
rash and negligent manner hit against the deceased due to which

the deceased died on spot and driver of 407 Tempo, one Prakash sustained multiple grievous injuries all over their body. The deceased Muthusamy was aged 28 years at the time of accident and was doing Agriculture and milk vending business and earning a sum of Rs.10,000/- per month.

3. In respect of the said accident, the legal heirs of the deceased filed the claim petition in M.C.O.P.No. 424 of 2010, claiming a total sum of Rs.9,99,000/- as compensation with interest and costs.

4. The Tribunal, after considering the oral and documentary evidence, awarded compensation of Rs.9,81,000/- together with interest at the rate of 7.5% per annum, the break-up details of the same are as under:-

Loss of Dependency (3750x12x17)	-	Rs.7,65,000/-
Loss of love and affection	-	Rs. 2,00,000/-
For Funeral Expenses	-	Rs. 10,000/-
For transport Expenses	-	Rs. 5,000/-
For damage to clothing and articles-	-	Rs. 1,000/-

Total	-----	Rs. 9,81,000/-	-----
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Challenging the same, the Transport Corporation has filed this appeal.

4. The main contention of the learned counsel for the appellant is that the compensation awarded by the tribunal is excessive and not in consonance with the materials available on record. The amount fixed towards dependency and multiplier adopted are not justified and on the higher side especially when the brother and sister were not dependents. The learned counsel for the appellant also contended that the award of Rs.2,00,000/- towards love and affection is not justified especially when that deceased was unmarried and two of the claimants were brother and sister.

5. This Court gave its anxious consideration to the contentions advanced by the parties and also perused the materials available on record as also the findings rendered by the Tribunal.

6. The materials available on record reveals that while calculating the loss of dependency, the Tribunal has not taken into consideration the future prospective increase income of the deceased. Though it is submitted that compensation under the head loss of love and affection is excessive, however, since future prospective increase in income has not been taken into consideration, any excess amount awarded under the head loss of love and affection would enure under future prospective increase

in income, which has not been considered. Therefore, the compensation awarded under those two heads cannot be said to be excessive.

7. For the reasons aforesaid, this Civil Miscellaneous Appeal is dismissed, confirming the Judgment and Decree of the Claims Tribunal, dated 26.08.2015, made in M.C.O.P.No.424 of 2010. No costs. Consequently, connected miscellaneous petition is closed.

8. The Insurance Company is directed to deposit the compensation amount along with interest and costs, as quantified by the Tribunal, to the credit of the claim petition, less the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount as per apportionment to the bank account of the respective claimants through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

1. The IV Additional District Judge
The Motor Accidents Claims Tribunal,
Erode District at Bhavani.

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

+1 cc to Mr.N.Vijayaraghavan Advocate sr 6311

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