

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2546 of 2016
and CMP.No.5910 of 2017

Oriental Insurance Company Limited,
No.4, Bharathidasan Road, 2nd Floor,
Cantonment, Trichirapalli - 620 001.

..Appellant/2nd Respondent

vs.

1. B.Bhakyavathi
2. N.Bakthavatchalam
3. B.Satish

4. B.Santosh ..Respondents 1to4/Claimants 1to4
5. Mr.G.Sankarasubramanian ..5th Respondent & 1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree in MCOP No.3411 of 2013 dated 28.01.2016 on the file of Motor Accidents Claims Tribunal, [II Court of Small Causes], Chennai.

For Appellant : Ms.C.Harini
for Mr.N.Vijayaraghavan

For Respondents: Mr.K.Suryanarayanan (for R1 to R4)
R5 : Exparte in the tribunal

J U D G M E N T

[Order of the Court was made by S.MANIKUMAR, J.]

For the death of a spray painter, aged about 26 years, stated to have earned Rs.15,000/- per month, legal representatives filed MCOP No.3411 of 2013 on the file of the MACT [II Court of Small Causes], Chennai, claiming compensation under various heads. Oriental Insurance Company Limited, Trichirapalli, appellant herein opposed the claim.

2. On evaluation of pleadings and evidence, the tribunal awarded compensation of Rs.22,19,000/- with interest at the rate of 7.5% per annum from the date of claim till deposit and costs as hereunder.

Income Fixed	: Rs.12,000/-
Add: 50% towards future prospects	: Rs. 6,000/-
Total Income	: Rs.18,000/-
Less: 50% towards dependency	: Rs. 9,000/-
Multiplier	: 18
Loss of contribution to the family	: Rs.19,44,000/-
[Rs.18,000/- x 12 x 18 x 50%]	
Loss of love and affection	: Rs. 2,00,000/-
Funeral Expenses	: Rs. 25,000/-
Loss of Estate	: Rs. 50,000/-
Total	: Rs.22,19,000/-

3. Challenging the quantum of compensation, instant appeal has been filed on the grounds inter alia that in the absence of any documentary evidence, the tribunal erred in fixing the monthly income of the deceased as Rs.12,000/- and added up 50%, under the head future prospects for computing the loss of contribution to the family. Except the above, no other challenge is made.

4. Record of proceedings shows that vide order dated 22.11.2016 in CMP No.18182 of 2016 in CMA No.2546 of 2016, this Court granted interim stay of the impugned judgment and decree, on condition that the appellant deposits a sum of Rs.17,00,000/- together with interest thereon to the credit of MCOP No.3411 of 2013 on the file of MACT [II Court of Small Causes], Chennai within a period of six weeks from the date of receipt of a copy of the abovesaid order.

5. Expressing difficulty in meeting out the expenses, parents and younger brothers of the deceased have filed CMP No.5910 of 2017 in CMA No.2456 of 2016, seeking permission to withdraw the entire amount lying in the deposit.

6. On this day, when the matter came up for further hearing, after discussion, Ms.Harini, learned counsel appearing for Oriental Insurance Company Limited, Thiruchirapalli and Mr.K.Suryanarayanan, learned counsel appearing for the legal representatives of the deceased/respondents consented that the monthly income of the deceased be reduced to Rs.10,000/- instead of Rs.12,000/- and accordingly, arrived at a consensus, that compensation be determined as Rs.18,95,000/- as hereunder.

Income Fixed	: Rs.10,000/-
Add: 50% towards future prospects	: Rs. 5,000/-
Total Income	: Rs.15,000/-
Less: 50% towards dependency	: Rs. 7,500/-
Multiplier	: 18

Loss of contribution to the family	: Rs.16,20,000/-
[Rs.18,000/- x 12 x 18 x 50%]	
Loss of love and affection	: Rs. 2,00,000/-
Funeral Expenses	: Rs. 25,000/-
Loss of Estate	: Rs. 50,000/-
Total	: Rs.18,95,000/-

7. In view of the consensus arrived at, compensation is reduced to Rs.18,95,000/-. Compensation awarded by the tribunal is Rs.22,19,000/- with interest at the rate of 7.5% per annum. Compensation now determined is Rs.18,95,000/- with interest at the rate of 7.5% per annum from the date of claim till deposit. Reduction in compensation is Rs.3,24,000/-. Reduction of Rs.3,24,000/- should be made in equal proportion from the share apportioned to the parents.

8. Sum of Rs.17,00,000/- with proportionate interest at the rate of 7.5% per annum has already been deposited and therefore, respondents 1 & 2, are permitted to withdraw the amount lying in the deposit.

9. M/s.Oriental Insurance Company Limited, is directed to deposit Rs.1,95,000/- with interest at the rate of 7.5% per annum awarded by the tribunal to the credit of MCOP No.3411 of 2013 on the file of Motor Accidents Claims Tribunal, [II Court of Small Causes], Chennai, within a period of four weeks from the date of receipt of a copy of this order. On the deposit of the balance amount of Rs.1,95,000/- with proportionate interest, respondents/claimants are at liberty to seek for withdrawal by making necessary applications.

10. The Civil Miscellaneous Appeal is allowed in part, as indicated above. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
सत्यमेव जयते

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Judge, Court of Small Causes,
Motor Accident Claims Tribunal, Chennai.

+ 1 cc to Mr.N. Vijayaraghavan, Advocate Sr.22315

+ 1 cc to Mr.K. Suryanarayanan, Advocate Sr.21849

C.M.A.No.2546 of 2016
and CMP.No.5910 of 2017

TM(CO)

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