

IN THE JUDICATE OF MADRAS HIGH COURT

DATE : 25.07.2017

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THE HON'BLE MR.JUSTICE R.SUBBIAH

and

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.M.A.No.2102 of 2017

and

C.M.P.No.11174 of 2017

The Oriental Insurance Company Limited,
New No.216, Old No.115, Prakasam Salai,
Broadway, Chennai-600 108. ... Appellant/2nd Respondent

Vs.

1.S.Mutharasi
2.S.Thiagarajan
3.Kanimozhi ... Respondents 1 to 3/Petitioners/Claimant
4.B.Saroja ... 4th Respondent / 1st Respondent

Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.09.2016 in M.C.O.P.No.2358 of 2015 passed by the Motor Accidents Claims Tribunal, Cuddalore.

For Appellant : Mr.N.Vijayaraghavan

JUDGMENT

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

This appeal has been filed by the Insurance Company challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Cuddalore in and by judgment and decree dated 20.09.2016 in M.C.O.P.No.2358 of 2015.

3.The respondents 1 to 3 herein are the claimants before the Tribunal. They are wife and parents of the deceased Selvakumar, who had died in a motor-accident that had occurred on 04.06.2015 involving the Tempo Traveller bearing Reg.No.TN-31-BX-4158 owned by the 4th respondent herein and insured with the appellant herein/Insurance Company.

4.It is the submission of the learned counsel for the appellant that the present appeal has been filed questioning the quantum of compensation alone. Hence, it is not necessary for

this Court to deal with the other aspects of the award passed by the Tribunal.

5. With regard to the quantum of compensation, the learned counsel for the appellant/Insurance Company submitted that a sum of Rs.8,500/- fixed by the Tribunal as monthly income of the deceased Selvakumar is extremely on the higher side. The Tribunal has also awarded an exorbitant amount of Rs.3,00,000/- towards loss of love and affection of the parents alone, therefore, the same needs proper reduction.

6. Keeping the submissions made by the learned counsel for the appellant/Insurance Company, We have carefully gone through the materials available on record.

7. It is the case of the claimants before the Tribunal that on the date of accident, the deceased was working as daily wager in Neyveli Lignite Corporation Ltd and earning a sum of Rs.10,224/- per month. Apart from that, he was also running brick kiln and earning a sum of Rs.15,000/- per month. Further, he was also doing part time work as collection agent in Sowdambigai Sweets and Snacks Stall; thus, according to the claimants, the deceased was earning a total sum of Rs.37,500/-. But, the Tribunal has fixed only a sum of Rs.8,500/- as monthly income of the deceased.

8. It is the contention of the learned counsel for the appellant/Insurance Company that in the absence of any tangible evidence, the Tribunal ought not to have fixed a sum of Rs.8,500/- as monthly income of the deceased. But, considering the present cost of living, We are of the opinion that the amount of Rs.8,500/- fixed by the Tribunal as monthly income of the deceased cannot be said to be on the higher side. The Tribunal has added 50% towards future prospects and deducted 1/3rd towards personal expenses and by applying multiplier 16, has awarded only a sum of Rs.16,32,000/- towards total loss of income, which cannot be said to be excessive. The calculation made by the Tribunal is well within the principles laid down by the Hon'ble Supreme Court in various decisions.

9. Similarly, the Tribunal has awarded a sum of Rs.3,00,000/- towards loss of love and affection to the parents. Considering the fact that in the accident, the parents have lost their only son, who was the breadwinner of the family, the said amount of Rs.3,00,000/- awarded under loss of love and affection cannot be said to be excessive. That apart, the Tribunal has awarded a sum of Rs.1,00,000/- as consortium to the wife and a sum of Rs.25,000/- each under the heads of Transportation and Funeral expenses. Thus, the Tribunal has passed an award for a total sum of Rs.20,82,000/-. Considering the facts and circumstances of the case, We are of the opinion that the quantum of

compensation awarded by the Tribunal cannot be said to be on the higher side at any stretch of imagination. Hence, We are not inclined to admit the appeal.

10. Accordingly, the appeal is dismissed at the admission stage itself. The appellant/Insurance Company is directed to deposit the entire award amount, if not deposited so far, with interest as awarded by the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondents 1 - 3 / claimants are permitted to withdraw their shares as apportioned by the Tribunal, by making necessary application.

Consequently, connected Miscellaneous Petition is closed.
No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

ssv

To,

The Motor Accidents Claims Tribunal,
Cuddalore.

+1cc to Mr.N.Vijayaraghavan, Advocate in sr.no.53532

C.M.A.No.2102 of 2017
and
C.M.P.No.11174 of 2017

CNR(CO)
NR 25/10/2017

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