

In the High Court of Judicature at Madras

Dated : 26.07.2017

Coram

The Honourable Mr.Justice R.SUBBIAH
and
The Hon'ble Mr.Justice A.D.JAGADISH CHANDIRA

C.M.A.No.2112 of 2017
and CMP No.11180 of 2017

M/s Reliance General Insurance Co Ltd.,
Sri Lakshmi Complex, First Floor,
Bharathi Street, Omalur Main Road,
Swarnapuri, Salem
D.O., Plot No.2054, Rai Towers,
2nd Avenue, 2nd floor, Anna Nagar,
Chennai - 40

..Appellant/3rd Respondent

..vs..

1.S. Lalitha ..1st Respondent/Petitioner

2.M.V.G. Sekar

3.Satthi R.

..2nd & 3rd Respondent/1st Respondent

4.Arunraj.P

..4th Respondent/2nd Respondent

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act 1988, against the award and decree dated 09.11.2016 passed in MCOP No.1303 of 2012 by the Motor Accidents Claims Tribunal, Chennai, (II Court of Small Causes, Chennai).

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.V. Vargees Amalraja

JUDGMENT

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

This appeal has been filed by M/s Reliance General Insurance Company Limited, questioning the compensation awarded by the Motor Accidents Claims Tribunal (II Court of Small Causes, Chennai).

2. The case of the respondents 1 and 2/claimants before the Tribunal is that on 31.07.2011 at about 12.40 hrs, while the deceased S. Priyadharshini was travelling as a pillion rider in a two wheeler, bearing Registration No.TN-22-BT-5554 from Velacherry to Redhills, on GNT Road, near Puzhal Camp Signal,

an Ashok Leyland-Multi Axle goods lorry, bearing Registration No.TN-28-AJ-8762, came in the same direction at a hectic speed in a rash and negligent manner, dashed behind the vehicle of the deceased and as a result of which, the deceased sustained injuries and died on the spot. Hence the respondents 1 and 2/claimants herein, who are the mother and father of the deceased respectively filed a claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.10,00,000/-, as compensation for the death of their son.

3. The Tribunal, after considering the materials available on records, came to the conclusion that the accident was due to rash and negligent driving of the driver of the goods lorry bearing Registration No.TN-22-BT-5554, which was insured with the appellant Insurance Company. Hence the Tribunal has directed the appellant Insurance Company to pay the compensation amount of Rs.15,71,000/-, arrived by it with 7.5% interest, indemnifying the owner of the vehicle. The break up details of the compensation amount, awarded by the Tribunal are as follows:

i) Loss of pecuniary benefits	 Rs.12,96,000/-
ii) Loss of love and affection	 Rs. 2,00,000/-
iii) Loss of estate	 Rs. 50,000/-
iv) Funeral expenses	 Rs. 25,000/-

	Rs.15,71,000/-

Now, challenging the quantum of compensation, the Reliance General Insurance Co Ltd has filed the present appeal.

4. Heard the learned counsel for the appellant/Insurance Company and the learned counsel for the respondents/caveator.

5. When the matter is taken up for consideration, the learned counsel for the appellant/Insurance Company submitted that the compensation awarded by the Tribunal is on the higher side. Hence proper reduction has to be made in the compensation, awarded by the Tribunal.

6. In view of the submission made by the learned counsel for the appellant/Insurance Company, we are not inclined to traverse to the other aspects of the Award. On a perusal of the Award, we do not find any infirmity in the award passed by the Tribunal, considering the fact that the respondents 1 and 2 have lost their son in the accident. However, we find that a sum of Rs.50,000/- (Rupees fifty thousand only), awarded by the Tribunal under the head " loss of estate" is totally unwarranted. Hence, the sum of Rs.50,000/-, awarded by the Tribunal under the head of " loss of estate" is set aside. Consequently, the total compensation amount is reduced to Rs.15,21,000/- from Rs.15,71,000/-. The break up details of the modified/reduced

compensation amount are as follows:

i) Loss of pecuniary benefits	 Rs.12,96,000/-
ii) Loss of love and affection	 Rs. 2,00,000/-
iii) Funeral expenses	 Rs. 25,000/-

	Rs.15,21,000/-

7. The appellant/Insurance Company Corporation is directed to deposit the amount of Rs.15,21,000/- (Rupees fifteen lakhs twenty one thousand only), with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, to the credit of the above said MCOP, within a period of four weeks from the date of receipt of a copy of this order.

8. On such deposit being made, the respondents 1 and 2 are are permitted to withdraw the amount equally. With the above modification, the civil miscellaneous appeal is partly allowed. No costs. Consequently, connected CMP is closed.

s/d-
Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

Copy to

1. The Motor Accidents Claims Tribunal,
(The II Court of Small Causes, Chennai)

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

+1 CC to Mr. S. Arunkumar, advocate sr 53236.

+1 CC to Mr.V. Vargees Amala Raja, Advocate sr 52702.

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KS (CO)
sp (23/08/2017)