

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 28.02.2017

CORAM:

THE HON'BLE MR. JUSTICE S. MANIKUMAR
AND
THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A. No.729 of 2017
and
C.M.P.No.4036 of 2017

Bharti AXA General Insurance Co. Ltd.
Represented by its Authorised Signatory
No.162, Metro Plaza 2nd Floor
Anna Salai, Chennai ...2nd Respondent/Appellant

Vs.

1.P.Balakrishnan ...Petitioner/Respondent
2.B.Sumathi
3.Paramanandam ...1st Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree, dated 12.04.2016 made in MCOP No.868 of 2014, on the file of Motor Accidents Claims Tribunal (I Additional District and Sessions Judge), Vellore.

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.S.P.Yuvaraj for
R1 and R2

JUDGMENT

(Made by S.MANIKUMAR, J.)

Quantum of compensation of Rs.24,77,000/- with interest, at the rate of 7.5% per annum from the date of claim till realisation and costs, awarded in MCOP No.868/2014 on the file of Motor Accidents Claims Tribunal (Additional District and Sessions Judge), Vellore, to the legal representatives of the deceased Tamilarasan, is challenged by Bharti Axa General Insurance Co. Ltd. Tribunal has quantified the said sum, as hereunder:

Loss of income	: Rs.22,95,000/-
Loss of Love and affection	: Rs. 1,00,000/-
Loss of Estate	: Rs. 50,000/-
Funeral Expenses	: Rs. 25,000/-
Transport Expenses	: Rs. 5,000/-
Damage to clothes and article	: Rs. 2,000/-

	: Rs.24,77,000/-

2. According to the learned counsel for the appellant/insurance company, the Tribunal has awarded excess compensation under the head loss of income, loss of estate and hence, they require reduction.

3. According to the claimants, on 26.10.2012 at 15.00 hours, while their son was travelling as a passenger, in a car bearing Registration No.TN-23 AM-4682, belonged to third respondent, on Vellore to Krishnagiri NH, opposite to Sunnambukottai Anjaneyar Koil, the driver of the said car, drove the same in a rash and negligent manner and dashed against a EB post, due to which, son of the claimants, sustained grievous injuries and on his way to the Government Hospital, Vaniyambadi, succumbed to the injuries. A case was registered on the file of Natrampalli Police Station against the driver of the car in Crime No.713/2012 for the offences under Sections 279, 337, 338 and 304-A IPC. At the time of accident, the deceased was hale and healthy, was a Guest Lecturer in Central Jail, Vellore and Tamil Nadu Open University, and earned Rs.25,000/- per month.

4. Parents are the claimants. According to them, son was an MBA graduate and was earning Rs.25,000/- as stated supra. Considering the judgment of Hon'ble Supreme Court in Syed Sadiq and others vs. Divisional Manager, United India Insurance Co. Ltd. reported in 2014 ACJ 627, the Tribunal fixed the monthly income of the deceased as Rs.15,000/-. Following the decision of Rajesh and others v. Rajbir Singh and others reported in 2013 (2) TNMAC 55 SC, the Tribunal added 50% of the income towards future prospects and thus arrived Rs.22,500/- as income. Since the deceased was a bachelor and survived by parents, the Tribunal deducted 50% of income towards the personal and living expenses of the deceased and thus arrived at a sum of Rs.11,250/- per month as loss of contribution to the family.

5. As the deceased was aged 27 years, proper multiplier would be 17 and hence the Tribunal calculated the compensation as Rs.11,250 x 12 x 17 = Rs.22,95,000/-. The deceased was an MBA graduate, a guest lecturer in Central Jail, Vellore and Tamil Nadu Open University. Supporting the same, evidence has been adduced. Therefore, we are of the view that, had he been alive, he would have earned more than this amount. Hence, we

are of the considered view that the compensation awarded under the head loss of income/loss of contribution to the family, is just and reasonable and the same does not require any reduction.

6. Further, the Tribunal has awarded compensation of Rs.1,00,000/- towards love and affection, Rs.25,000/- towards funeral expenses, Rs.5,000/- towards transportation and Rs.2,000/- towards damage to clothes and articles, which, in our considered view, is just and reasonable and the same does not require any modification. Hence, the compensation under the above heads are confirmed.

7. Under the head loss of estate, the Tribunal has awarded a sum of Rs.50,000/-. Since the Tribunal has awarded a sum of Rs.1,00,000/- under the head loss of love and affection, and the claimants being parents, we are inclined to reduce the same under the above head, to Rs.35,000/-, as just and reasonable compensation.

8. After going through the judgment and materials on record, we are of the view that a sum of Rs.15,000/- alone can be reduced under the head loss of estate and all other amounts, are confirmed. After modification, the compensation now determined by this court is Rs.24,62,000/-.

9. Compensation Rs.24,77,000/- awarded by the Tribunal, is modified to Rs.24,62,000/- with interest, at the rate of 7.5% per annum from the date of claim, till deposit and costs. Hence the appellant/insurance company is directed to deposit the entire amount now determined by this court with proportionate interest less statutory deposit, to the credit of MCOP No.868 of 2014 on the file of Motor Accident Claims Tribunal (I Additional District and Sessions Judge), Vellore, within a period of four weeks from the date of receipt of a copy of this judgment. Tribunal is further directed to disburse the compensation amount, after due verification and identity of the claimants. We direct that, there should be strict compliance while disbursing the compensation.

In the result, the civil miscellaneous appeal is partly allowed to the extent indicated above. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal
(I Additional District and Sessions Judge), Vellore

C.M.A.No.729 of 2017 and
C.M.P. No.4036 of 2017

ad(co)
ss(10/5/2017)



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