



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.553 of 2015

and

M.P. (MD) .No.1 of 2015

The Oriental Insurance Company Limited,
No.4.4 J Centre,
Vadasery,
Nagercoil.

: Appellant/Respondent No.2

Vs.

1.Tmt.Prabha : Respondent-1/Petitioner-1
2.Libish Kumar
(Minor represented by
his mother Tmt.Prabha) : Respondent-2/Petitioner-2
3.Tmt.Thanga Nadatchi : Respondent-3/Petitioner-3
4.Mahesh @ Kannan : Respondent-4/Petitioner-1
(Respondent No.4 Given up)

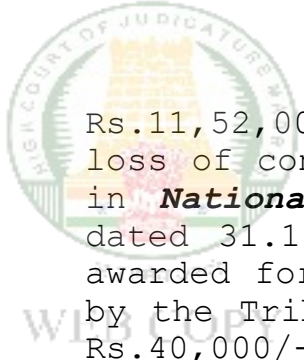
Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the order of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Nagercoil made in M.C.O.P.No.163/2013 dated 19.12.2014.

For Appellant : Mr.C.Jawahar Ravindran
For Respondents : Mr.T.Selva Kumaran
For caveator R1 to R3
R4-Given up

JUDGMENT

Heard the learned counsel on either side.

2.The Insurance Company has filed this appeal challenging the award on the ground of quantum. The victim died on 27.04.2012. The accident involving the vehicle insured by the appellant Corporation herein. The deceased was aged about 32 years when the accident took place. Since no income proof was filed, the Tribunal fixed the monthly income at Rs.9,000/-. After making 1/3rd deduction, the annual income available for the family would be Rs.72,000/-. Applying the multiplier 16, the pecuniary loss would come to



Rs.11,52,000/-. The Tribunal awarded a sum of Rs.1,00,000/- for loss of consortium. The Hon'ble Supreme Court in the decision held in **National Insurance Company Limited Vs. Pranay Sethi and Ors.** dated 31.10.2017, has held that only a sum of Rs.40,000/- can be awarded for loss of consortium. Therefore the compensation awarded by the Tribunal under the head of loss of consortium is reduced to Rs.40,000/-. The compensation awarded in other heads cannot be said to be excessive. Accordingly, the compensation awarded by the Tribunal is reduced from Rs.13,72,000/- to Rs.13,12,000/-. The award dated 19.12.2014 made in M.C.O.P.No.163/2013 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Nagercoil is accordingly modified.

3.The appellant insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the same, as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

4.The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Nagercoil.

TSG

TE/JC/SAR-1 : 21/11/2017 : 2P/2C

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