

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1274 of 2018

and

C.M.P.No.10268 of 2018

M/s.Reliance General Insurance Co. Ltd.,
Plot No.2054, 2nd Avenue,
Anna Nagar, Chennai 600 040. Appellant /2nd respondent

Vs

1.V.Sumathi
2.S.Venkatesan Respondent/Petitioners

3.M.Radhakrishnan Respondent/1st Respondent

PRAYER : Civil Miscellaneous Appeal filed under section 173 of
MV Act 1988 against the Award and Decree dated 29.04.2017 made
in M.C.O.P.No.5330 of 2012 on the file of the Motor Accidents
Claims Tribunal, II Court of Small Causes, Chennai.

(*)

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.Balaji Prasad

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the insurance company, against the award of Rs.22,19,000/- as compensation to the dependants of one V.Divya, 19 years, II year B.E., student, who died in the accident, which occurred on 03.09.2012, when the victim was travelling as pillion rider in a motorcycle, which was hit down by tipper lorry, belonging to the 3rd respondent, insured with the appellant/insurance company.

2.Heard Mr.S.Arunkumar, learned counsel appearing for the appellant and Mr.Balaji Prasad, learned counsel appearing for the claimants.

3.The only question, to be decided is with regard to the quantum of compensation.

4.Mr.S.Arunkumar, learned counsel appearing for the appellant would argue that the accident occurred in 2012 and the notional income of Rs,12,000/- fixed for a II year B.E., student is on the higher side and Rs.2,00,000/- awarded towards loss of love and affection, Rs.50,000/- towards loss of estate, Rs.25,000/- towards funeral expenses, are all on the higher side, which are against the judgment of the Constitution Bench of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC).

5.However, Mr.Balaji Prasad, learned counsel appearing for the claimants would support the award.

6.A perusal of the records would show that the deceased was a II year B.E., student as proved by Ex.P.7-bonafide certificate issued by Karpaga Vinayaga Engineering College. The sum of Rs.12,000/- determined as notional income by the Tribunal for a II year B.E., student, cannot be estimated to be on the higher side. On successful completion of B.E., course, the B.E., graduates have got opportunities of employment worldwide and therefore, Rs.12,000/- fixed by the Tribunal is confirmed.

7.The Tribunal took 50% towards future prospects, which is on the higher side. As per judgment of the Constitution Bench of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), 40% has to be added towards future prospects as the

deceased was aged about 19 years. After adding 40% towards "future prospects", the total monthly income would be at Rs.16,800/- (12,000/- + 40% of Rs.12,000/-).

8.The Tribunal rightly deducted 50% towards personal expenses, since the victim was a spinster. After deducting 50%, loss of monthly contribution would be at Rs.8,400/- (Rs.16,800/- - 50% of Rs.16,800/-).

9.The Tribunal rightly applied multiplier "18" as per the judgment of the Honourable Supreme Court in Sarla Verma & Others .Vs. Delhi Transport Corporation & another, reported in 2009 (2) TNMAC um of Rs.50,000/- was awarded by the Tribunal towards loss of estate. As per the Constitution Bench's judgment in Pranay Sethi's case, the same is reduced to Rs.15,000/-

13.Transportation:

No amount was awarded towards transportation. Hence, this Court awarded a sum of Rs.10,000/- under this head.

Head	Amount (Rs.)
Total loss of income	1814400
Loss of love and affection	100000
Funeral expenses	15000
Loss of estate	15000
Transportation	10000
	1954400

14.Hence, the total compensation payable in this case is Rs.19,54,400/- rounded off to Rs.19,50,000/-

15.The interest awarded by the Tribunal at the rate of 7.5% per annum is confirmed. The direction given by the Tribunal, with regard to pay and recovery is confirmed. Out of the award amount, the claimants 1 and 2 are entitled to get equal share.

16.The Insurance company is directed to deposit the award amount as per the modified award passed by this Court, within a period of six weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. On such deposit being made, the Tribunal is directed to transfer the respective shares of claimants 1 and 2 along with proportionate interest and costs to their respective bank accounts through RTGS within a period of one week thereon.

17. Accordingly, this appeal is partly allowed, reducing the award of the Tribunal from Rs.22,19,000/- to Rs.19,50,000/- with interest. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-VIII)
Dated: 30/08/2018

(*) Deleted order to be issued

Sd/-
Sub Assistant Registrar (CO1)
Dated: 1/10/2018

// True Copy //

Sub Assistant Registrar

sai

To

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

To be substituted for the
order already despatched
on 25/09/2018

Copy TO

The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.G.Balaji Prasad, Advocate, S.R.No.38150
+1cc to Mr.S.Arun Kumar, Advocate, S.R.No. 38850

C.M.A.No.1274 of 2018

SSV(CO)
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srg 01/10/2018