

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1627 of 2016
and
C.M.P.No.12303 of 2016
and
Cros.Obj.No.24 of 2018

Royal Sundaram Alliance Insurance Company Limited,
"Sundaram Towers" 45 & 46,
Whites Road, Chennai 600 046. ... Appellant/Respondent 2
1st Respondent in
Cros.Obj.No.24/2018.

Vs

1.T.N.Narayanan

2.N.Indira ...Respondents 1 & 2/Petitioners
Cross Objectors 1 & 2 in
Cros.Obj.No.24/2018.

3.Venkatachalam ...3rd Respondent /1st Respondent
2nd Respondent in Cros.Obj.No.24 /2018.

PRAYER : Civil Miscellaneous Appeal filed against the Decree
and Judgment dated 2nd day of April, 2016 made in MCOP.No.2578 of
2011 on the file of the Motor Accident Claims Tribunal, (II
Court of Small Causes) of Madras.

For Appellant : Mr.S.Manohar in C.M.A.No.1627 of 2016
and 1st Respondent in Cros.Obj.No.24/18

For Respondents : Mr.F.Terry Chella Raja (For R1 & R2)
and Cross objectors in Cros.Obj.No.24/18
R3-Exparte

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.35,65,000/- as compensation to the
dependents of one Mr.Arvind Narayanan, a B.E., and M.B.A.,

graduate, aged about 24 years, allegedly earning about 25,000/- per month, in the accident, which occurred on 06.08.2010, when the deceased was travelling as a pillion rider in a two wheeler, which was hit down by a lorry belonging to the 3rd respondent and insured with the appellant/insurance company.

2.Heard Mr.S.Manohar, learned counsel appearing for the appellant and Mr.F.Terry Chellaraja, learned counsel appearing for the claimants.

3.The learned counsel appearing for the appellant would submit that in the absence of any documents regarding the income, the Tribunal fixed the notional income of the deceased at Rs.20,000/- which is on the higher side. Further, he would submit that Rs.2,00,000/- awarded towards love and affection and Rs.1,00,000/- towards loss of estate are on the higher side.

4.However, Mr.F.Terry Chellaraja, learned counsel appearing for the claimants would submit that immediately after completing B.E., the deceased joined in one company called Adventity BPO India Pvt. Ltd., on 23.11.2005 and was drawing a sum of Rs.12,500/-. Thereafter, he joined another company viz., Respondez on 12.05.2006 as Senior Customer Service Associate and was drawing Rs.19,000/- per month. Those documents have been marked as Ex.P.7 and Ex.P.8. Since the victim died in the year 2010, the Tribunal rightly determined the monthly income at Rs.20,000/-, based on the income drawn by the victim. Now the only question to be decided is with regard to quantum alone.

5.A perusal of the record would show that at the time of the accident, the deceased was not employed and was only undergoing MBA course. Taking into consideration Ex.P.7 to Ex.P.9, the Tribunal fixed Rs.20,000/- as notional income. The said determination is on the higher side. The deceased worked only for one year in the first company and two years in the second company. In the absence of any employment, determination of Rs.20,000/- is on the higher side. Therefore, considering the qualification of the deceased, this Court determines the income at Rs.15,000/- per month. This determination of Rs.15,000/- is only based on his past employment, which had been proved by Ex.P.7 to Ex.P.8.

6.The age of the deceased as per Ex.P.6-MBA Grade sheet is '24' and the appropriate multiplier of '18' as per the judgment of the Honourable Supreme Court in Sarla Verma & Others .Vs. Delhi Transport Corporation & another, reported in 2009 (2) TNMAC 1 (SC) is rightly applied by the Tribunal.

7.As per the Constitution Bench's judgment 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. After adding 40% towards future prospects, the monthly income would be at Rs.21,000/- (Rs.15,000/- + 40% of Rs.15,000/-).

8.The deceased died as a bachelor and therefore 50% has to be deducted towards personal expenses, which was rightly done by the Tribunal. After deducting 50% towards personal expenses, the loss of income would be at Rs.10,500/- (Rs.21,000/- x 50/100).

9.The total loss of income would be at Rs.22,68,000/- (10,500/- x 12 x 18).

10.Loss of love and affection:

The Tribunal has awarded a sum of Rs.2,00,000/-, which is on the higher side. Hence, the same is reduced to Rs.1,00,000/-.

11.Funeral expenses:

A sum of Rs.25,000/- was awarded by the Tribunal towards funeral expenses. As per the Constitution Bench's judgment in Pranay Sethi's case, the same is reduced to Rs.15,000/-

12.Loss of estate:

A sum of Rs.1,00,000/- 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 awards a sum of Rs.10,000/- under this head.

Head	Amount (Rs.)
Total loss of income	2268000
Loss of love and affection	100000
Funeral expenses	15000
Loss of estate	15000
Transportation	10000
Total	2408000

14.Hence, the total compensation payable in this case is Rs.24,08,000/- rounded off to Rs.24,00,000/-

15.The interest awarded by the Tribunal at the rate of 7.5% per annum 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 with interest and costs 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.35,65,000/- to Rs.24,00,000/- with interest. The Cross. Obj. filed by the Claimants is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

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

2. The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.S. Manohar, advocate sr 39673.

+1 CC to Mr.F. Terry chella Raja, Advocate sr 39876.

C.M.A.No.1627 of 2016

and

Cros.Obj.No.24 of 2018

SP(09/08/2018)

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