

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.1888 of 2018 and
C.M.P.No.14541 of 2018

Branch Manager,
M/s. National Insurance Co.Ltd.,
No.33, Bharathi Dasan Road,
Contonment, Trichy - 1. Appellant/2nd Respondent

-vs-

1.Arumugaraja
2.Panchavarnam
3.Yuvaraj
4.Minor Prakash
(4th Minor Rep. By his guardian
Father 1st respondent Arumugaraja)
5. Vallikannu Respondents/Claimants 1 to 4/
1st respondent

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the Judgment and Decree dated
12.10.2017 and made in M.C.O.P.No.401/2012 on the file of the
Motor Accident Claims Tribunal, Perambalur (Principal District
Court) Perambalur.

For Appellant : Mr.S.Vadivel

For Respondents 1 to 4: Mr.T.Gobinath Caveator

J U D G M E N T

[Judgment of the Court was made by
R.SUBRAMANIAN, J.]

The appeal is at the instance of the Insurance Company
challenging the quantum of compensation fixed at
Rs.39,52,000/- by the Tribunal for the death of one Vasudevan,
who was working as a Software Engineer. The age and
educational qualification of the deceased are not in dispute.

2. Mr.S.Vadivel, learned counsel appearing for the
Insurance Company would contend that the Tribunal erred in
relying upon the evidence of P.W.5., who had deposed that the
deceased was employed with an organisation viz., Tamil Source

for the past five years, which according to him is apparently false since the deceased had completed his Engineering only in the year 2009 and the accident occurred in the year 2010. Even eschewing the evidence of P.W.5, we do not think that the fixation of the salary at Rs.30,000 is on the higher side.

3. Admittedly, the deceased was an Engineering Graduate and was working as a Software Engineer at the time of accident. The Tribunal has added 50% towards future prospects. As per the judgment of the larger Bench of the Hon'ble Supreme Court in National Insurance Co. Ltd., v. Pranay Sethi and others [2017 (2) TN MAC 609 (SC)], 40% has to be added towards future prospects. Adding 40%, the monthly income of the deceased works out to be Rs.42,000/-. The deceased was a bachelor. Therefore 50% of the salary has to be deducted towards personal expenses. Hence, the loss of earning capacity to the family would be Rs.21,000/-. Considering the age of the deceased viz., 21 years, multiplier "18" has to be adopted. Therefore, the pecuniary loss works out to be Rs.45,36,000/-. From the said amount, 20% has to be deducted towards income tax, leaving a balance of Rs.36,28,800/- as pecuniary loss.

4. The Tribunal has awarded a sum of Rs.50,000/- for loss of love and affection; Rs.25,000/- for funeral expenses and Rs.5,000/- towards loss of estate. These heads are sustained.

5. In the result, the Civil Miscellaneous Appeal is allowed:-

i) The compensation is fixed at Rs.37,08,800/- which is rounded off to Rs.37,09,000/-.

ii) The compensation is apportioned as follows:-

The father viz., the first respondent would be entitled to Rs.15,00,000/- (Rupees Fifteen lakhs only) and the balance amount of Rs.22,09,000/- (Rupees Twenty two lakhs and nine thousand only) would go to the mother viz., the second respondent. The respondents 3 and 4 being the brothers of the deceased are not entitled to any share in the compensation.

(ii) The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit with proportionate costs.

(iii) The appellant - Insurance Company is directed to deposit the award amount, less the amount, if any, already deposited, along with accrued interest and costs within a period of eight weeks from the date of receipt of a copy of this judgment.

(iv) On such deposit, the respondents 1 and 2 are permitted to withdraw the amount deposited by filing proper application before the Tribunal. The

Tribunal shall pass appropriate directions for the disbursal of the amount as stated supra on filing of such application.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

svki

To

Motor Accident Claims Tribunal,
(Principal District Judge) Perambalur.

+lcc to Mr.S.Vadivel, Advocate Sr.No.58886

+lcc to Mr.T.Gobinath, Advocate Sr.No.58947

SSI(CO)

sm:26.9.2018

CMA No.1888 of 2018

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