

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM:

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

CMA No.2073 of 2015
and M.P.No.1 of 2015

1.K.Ranjani
2.K.Sarojini
3.Major Venkatesh Raju
(3rd Appellant declared as major
vide court dated 03.09.2018 made in
CMA.2073 OF 2015 AND MP.1 OF 2015)

... Appellants/Appellant

-vs-

1.R.Srinivasan

2.Bharati Axa General Insurance Company Ltd.,
2nd Floor, Metro Plaza,
No.162, Anna Salai,
Chennai 600 002.

... Respondents/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988 against the judgment and decree dated 16.07.2015 passed in M.C.O.P.No.605 of 2012 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Perambalur.

For Appellant : Mr.V.Raghupathi

For Respondents: No appearance (For R1)
Mr.S.Arun Kumar (For R2)

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J U D G M E N T

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

The claimants who are the dependants of Kannan Rengaraj who died in a motor accident that occurred on 25.09.2012, have come forward with this appeal, seeking enhancement.

2.It was stated that the deceased was working with Proprietary concern of 'Ahamed Pipe Fittings'. P.W.2 was examined to prove the salary certificate, namely Ex.P7. Noting the discrepancies in the evidence as well as the corrections

made in the salary certificate, the Tribunal fixed the monthly salary notionally at Rs.6,000/-, after deducting 1/3 towards personal expenses, it arrived at the loss of income at Rs.4,000/- per month. Adopting the multiplier at '13', the Tribunal arrived at the total loss of dependency at Rs.6,24,000/-. It is this award that is challenged by the claimants.

3.We have heard Mr.V.Raghupathi, learned counsel for the appellant and Mr.S.Arun Kumar, learned counsel for the Insurance Company.

4.Mr.V.Raghupathi would contend that the Tribunal was not right in fixing the income at Rs.6,000/- per month. In the light of the evidence that has been produced, the Tribunal's fixation of the income at Rs.6,000/- is too low. He would also plead that the Tribunal has not taken into account the future prospects which should have been allowed in view of the larger bench of the Hon'ble Supreme Court in the case of National Insurance Co. Ltd Vs. Pranay Sethi and others reported in 2018 (1) LW 331.

5.Per contra, Mr.S.Arun Kumar, learned counsel for the Insurance Company would submit that the award on the whole is just and reasonable.

6.We considered the rival submissions. Considering the qualification of the deceased, his age at the time of the accident and the fact that he was working with the Proprietary concern 'Ahamed Pipe Fittings', we are of the considered opinion that his monthly income could be taken as Rs.9,000/-, adding 25% towards future prospects and deducting 1/3 towards personal expenses and applying the multiplier as '13', the total loss of dependency would work out to Rs.11,70,000/-. The Tribunal has granted a sum of Rs.50,000/- towards loss of consortium and the same is sustained. The Tribunal has granted a sum of Rs.30,000/- towards loss of estate and Rs.10,000/- towards funeral expenses. The amount granted towards funeral expenses is increased to Rs.15,000/- and that granted towards estate is reduced to Rs.15,000/-. The Tribunal has not granted any amount towards loss of love and affection. Therefore, we grant a sum of Rs.80,000/- towards loss of love and affection to the children. The Tribunal has granted Rs.5,000/- towards transportation expenses and the same is sustained.

7.In view of the above, the appeal is partly allowed, granting a sum of Rs.13,35,000/- as compensation instead of Rs.7,19,000/- awarded by the Tribunal. The enhanced award amount will carry interest at the rate of 7.5% per annum. The Insurance Company shall deposit the award amount within a period of four (4) weeks from the date of receipt of a copy of this order. The enhanced compensation is apportioned as follows: The wife/1st appellant will take Rs.2,16,000/- with proportionate interest and entire costs and the two children

viz., appellants 2 and 3 will take Rs.2,00,000/- each with proportionate interest. It is seen from the records that the minor child Venkatesh Raju, who was 12 years old at the time of filing of the petition would also have attained majority. Therefore, he is also permitted to withdraw his share of the enhanced compensation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Motor Accidents Claims Tribunal,
Principal District Judge,
Perambalur.
2. The Section Officer,
V.R. Section, High Court,
Madras.(2 copies)

+1 CC to Mr.S.ARUNKUMAR, Advocate SR.NO.60992
+1 CC to Mr.V.RAGHUPATHI, Advocate SR.NO.60558

CMA No.2073 of 2015
and M.P.No.1 of 2015

NM(CO)
GN(16.11.2018)

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