

IN THE JUDICATE OF MADRAS HIGH COURT

DATE : 12.02.2018

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THE HON'BLE MR.JUSTICE R.SUBBIAH

and

THE HON'BLE MR.JUSTICE T.RAVINDRAN

C.M.A.No.211 of 2018

and

M.P.No.2463 of 2018

M/s.Raliance General Insurance Company Limited,
HEAVITREE, Unit No.1,
3rd Floor, Spur Tank Road,
Chetper, Chennai-600 031. ... Appellant /2nd Respondent in
Tribunal below

Vs.

1.P.K.Priji
2.P.Aishwarya Nath (Minor)
3.P.Madhavan (Minor)
4.S.Govindarajan ... Respondent/Petitioners 1 to 3
and ist Respondent in
Tribunal below
(Minors R2 & R3 are rep. by their mother
and Next Friend 1st respondent)

Civil Miscellaneous Appeal has been filed under Section 173
of Motor Vehicles Act 1988 against the judgment and decree dated
11.10.2017 in M.C.O.P.No.2234 of 2012 passed by the Motor
Accident Claims Tribunal (II Court of Small Causes) Chennai.

For Appellant : Ms.C.Harini

JUDGMENT

(Judgment of the Court was delivered by R.SUBBIAH, J.,)

This Appeal has been filed by the Insurance Company against
the judgment and decree dated 11.10.2017 in M.C.O.P.No.2234 of
2012 passed by the Motor Accident Claims Tribunal (II Court of
Small Causes) Chennai.

2.This appeal has been listed today for admission. When the

matter is taken up today, the learned counsel for the appellant/Insurance Company submitted that the present appeal has been filed challenging only the quantum of compensation awarded by the Tribunal. Since this appeal has been filed challenging only the quantum of compensation, it is not necessary for this Court to traverse into the other aspects of the award passed by the Tribunal.

3.The claimants before the Tribunal are the wife, minor daughter, minor son and mother of the deceased Baijunath, who died in a motor accident that had occurred on 02.10.2011 involving a car bearing Reg.No.TN-50-X-0830 owned by the 4th respondent herein and insured with the appellant/Insurance Company. Pending the claim petition, the mother of the deceased died.

4.It is the only submission of the learned counsel for the appellant/Insurance Company that the Tribunal has awarded exorbitant amounts under the conventional heads viz., a sum of Rs.25,000/- for funeral expenses, a sum of Rs.1 lakh towards loss of consortium and a sum of Rs.1,60,000/- for loss of love and affection. Thus, it is the submission of the learned counsel for the appellant/Insurance Company that proper reduction has to be made in the compensation amount awarded by the Tribunal.

5.Keeping the submission made by the learned counsel for the appellant/Insurance Company, We have carefully gone through the entire materials available on record and We find that it is the case of the claimants before the Tribunal that the deceased Baijunath was working as Sales Manager in M/s.Pergo Design Center and earning a sum of Rs.13,200/- per month. In order to prove the income earned by the deceased before the Tribunal on the side of the claimants, his employer was examined as P.W.2 and salary certificate was marked as Ex.P.8. P.W.2 has stated in his evidence that the deceased Baijunath was paid a sum of Rs.13,200/- per month. But, inspite of the same, the Tribunal has chosen to take only a sum of Rs.6,000/- as monthly income of the deceased since in Ex.P.11, Bank Statements, the sum of Rs.13,200/- was not reflected. After taking Rs.6,000/- as monthly income of the deceased, the Tribunal has added 30% amount towards future prospects and arrived at a sum of Rs.7,800/- (6000 + 1800). Thereafter, by deducting 30% amount towards personal expensed and applying multiplier 14 on the basis of the age of the deceased, who was 44 years at the time of accident, the Tribunal has awarded a sum of Rs.9,17,280/- only under the head of loss of income. That apart, the Tribunal has awarded a sum of Rs.25,000/- for funeral expenses, a sum of Rs.1 lakhs towards consortium and a sum of Rs.1,60,000/- for loss of love and affection to the minor children of the deceased.

6. Though it appears that the compensation amounts awarded by the Tribunal under the conventional heads are marginally on the higher side, considering the fact that the Tribunal has chosen only a lesser amount of Rs.6,000/- as monthly income of the deceased to arrive at the compensation amount under the head of loss of income, We are not inclined to reduce the compensation amounts awarded by the Tribunal under the conventional heads. Considering the facts and circumstance of the present case, the total compensation amount of Rs.12,02,280/- awarded by the Tribunal cannot be said to be excessive at any stretch of imagination. Moreover, consider the fact that the minor children have lost their father at their tender age, the compensation amount awarded by the Tribunal under the head of loss of love and affection cannot be said to be on the higher side. Absolutely, We do not find any merit in the present appeal and the same is liable to be dismissed.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed at the admission stage itself, confirming the award passed by the Tribunal. The Appellant-Insurance Company is directed to deposit the entire compensation amount with interest as awarded by the Tribunal within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st claimant/wife is permitted to withdraw her share amount with interest accrued thereon, by making necessary application before the Tribunal. As regards the share amounts of the minor claimants, the same shall be deposited in any one of the nationalised banks till they attain majority and the 1st claimant, their mother, is permitted to withdraw the interest accrued thereon once in every three months.

Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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

+1 cc to M/s.M.B.Gopalan Associates sr 10658

C.M.A.No.211 of 2018
and
M.P.No.2463 of 2018

aa19/03/2018