

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.08.2018

CORAM:

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

C.M.A.No.2144 of 2017
& C.M.P.No.11366 of 2017

United India Insurance Company Limited,
Divisonal Office, Nethaji Road,
Manjakuppam, Cuddalore-1.Appellant/2nd Respondent

Vs.

Ramani 42 years (deceased)
1.Kuppurajan
2.Minor K.P.Sreeshreya, 13 years,
D/o Kuppurajan
Both residing at No.29/239,
Varadharajalu Street, Jothy Nagar,
Aathur, Salem District.
Minor rep., by father Kuppurajan

3.Latha Murugan,
W/o Murugan,
48C-39, 3rd Street, Jayapuram,
Tindivanam Taluk.
(Cause title accepted vide order of Court
dt.28.03.2017 made in
CMP.5577/17 in CMA.SR.42939/17) Respondents/Petitioners/
1st Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988 against the award dated 30.04.2015
made in MCOP No.1586 of 2013 on the file of Motor Accidents
Claims Tribunal, II Additional Subordinate Court, Cuddalore.

For Appellant : Mr.S.Arunkumar

For Respondents: Mr.N.Sudharsan for
Mr N.Damodaran for R1 & R2
R3-No appearance

J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN,J.)

The Civil Miscellaneous Appeal has been filed against the award dated 30.04.2015 made in MCOP No.1586 of 2013 on the file of Motor Accidents Claims Tribunal, II Additional Subordinate Court, Cuddalore.

2.The Insurance Company has filed the appeal challenging the quantum of compensation awarded for the injuries caused to one Ramani (since deceased) in a motor accident that took place on 31.12.2011. The injured was 32 years old. The disability was assessed by the Tribunal at 100%. The Tribunal took the monthly income at Rs.15,000/- added 50% towards future prospects and awarded a sum of Rs.37,80,000/- towards loss of earning power. The Tribunal has also granted a sum of Rs.50,000/- towards transport charges, Rs.1,50,000/- towards pain and suffering, Rs.3,15,000/- towards attender charges, Rs.7,81,350/- towards medical bills, Rs.1,00,000/- towards loss of amenities and loss of life expectation, Rs.2,10,000/- towards future medical expenses, Rs.50,000/- towards loss of disfigurement, Rs.1,00,000/- towards physical and mental agony, Rs.50,000/- towards cost of replacement of bed sheet and mattress, Rs.2,00,000/- towards loss of cohabitation pleasure and Rs.25,000/- towards maintenance of wheel chair and in all, a sum of Rs.58,11,350/- has been awarded as total compensation.

3. Mr.S.Arun Kumar, learned counsel for the Insurance company, would contend that the monthly income fixed at Rs.15,000/- by the Tribunal on the higher side. He would also submit that the Tribunal is wrong in adopting the multiplier of 15 and adding 50% towards future prospects. According to the judgment of the Larger Bench of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and other, reported in 2018 (1) Law Weekly 331, it could be only 25%. He would also contend that attender charges for 14 years need not be given because the injured herself died on 29.06.2015 pending this appeal. Therefore, according to him, claimants are entitled to the attender charges only for a period of four years. He would also canvass the quantum of future medical expenses as excessive. The quantum awarded under the heads cost of replacement of bed sheet and mattress, compensation for loss of cohabitation pleasure and maintenance of wheel chair are excessive.

4. Per contra, Mr.M.Sudharsan, learned counsel for respondents 1 and 2, would contend that the over all compensation awarded by the Tribunal is justified, considering the fact that the injured died pending this appeal.

5. We have heard the rival submissions. We are not inclined to reduce the monthly income. We are of the view that the addition of 50% towards future prospects has to be reduced to 25% in tune with the judgment of the Larger Bench of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and other, reported in 2018 (1) Law Weekly 331. Thus, the loss of earning power would be Rs.31,50,000/- (Rs.15,000+25/100x12x15= 31,50,000/-). Further, we are of the view that the amount awarded under the heads attender charges, future medical expenses, cost of replacement of bed sheet and mattress, compensation for loss of cohabitation pleasure and maintenance of wheel chair are excessive and the same need modification. Accordingly, it would be appropriate to award a sum of Rs.1,00,000/- towards attender charges, Rs.50,000/- towards future medical expenses, Rs.25,000/- towards cost of replacement of bed sheet and mattress, Rs.50,000/- towards loss of cohabitation pleasure and Rs.10,000/- towards maintenance of wheel chair. The compensation awarded under other heads viz., transportation, pain and suffering, medical bills, loss of amenities and loss of life expectation, loss of disfigurement, physical and mental agony is sustained.

6. The details of the modified compensation as per the above discussion are as under:-

Loss of earning power	Rs.31,50,000/-
Transportation	Rs. 50,000/-
Pain and suffering	Rs. 1,50,000/-
Attender Charges	Rs. 1,00,000/-
Medical bills	Rs. 7,81,350/-
Loss amenities and	
Loss of life expectation	Rs. 1,00,000/-
Future medical expenses	Rs. 50,000/-
Loss of disfigurement	Rs. 50,000/-
Physical and mental agony loss	Rs. 1,00,000/-
Cost of replacement of bed sheet and mattress	Rs. 25,000/-
Compensation for loss of cohabitation pleasure	Rs. 50,000/-
Maintenance of wheel chair	Rs. 10,000/-
Total	Rs. 46,16,350/-

The same is rounded off to Rs.46,20,000/-.

7. The Civil Miscellaneous appeal is partly allowed and the claimants/respondents 1 and 2 are entitled to the modified compensation of Rs.46,20,000/- (Rupees forty six lakhs and twenty thousand only) as against the compensation of Rs.58,11,350/- awarded by the Tribunal with proportionate interest at 7.5% from the date of petition till the date of payment. The compensation is apportioned as follows:

The second respondent-minor claimant will be entitled to Rs.30,00,000/- with proportionate interest. The first respondent, husband of the deceased, will be entitled to remaining amount of Rs.16,20,000/- with proportionate interest and entire costs.

The Tribunal is directed to deposit the share of the minor claimant in a Nationalised Bank in a interest earning cumulative fixed deposit till she attains majority. The first respondent is permitted to withdraw his share of the compensation. The appellant-Insurance Company is entitled to refund of the balance amount. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

raa

To

The Motor Accidents Claims Tribunal,
II Additional Subordinate Court,
Cuddalore.

+1cc to Mr.S.Arunkumar, Advocate Sr.59881
+1cc to Mr.N.Damodaran, Advocate Sr.59632

C.M.A.No.2144 of 2017

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srg 22/10/2018