

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.3215 of 2017
& C.M.P.No.19907 of 2017

Branch Manager,
Reliance General Insurance Co., Ltd.,
No.14, Ramasamy Street, Tambaram South,
Chennai-600 045. ...Appellant

Vs.

- 1.Kollaiyan, 58 years,
S/o Kali
- 2.Nagammal, 53 years,
W/o Kollaiyan
- 3.Nirmala, 28 years,
W/o Perumal, Residing at Nallur Village,
Kalavai Post, Arcot Taluk,
Vellore District.
- 4.Yamuna, 26 years,
W/o Natarajan
- 5.Sathiya, 23 years,
S/o Kollaiyan,
(Respondents 1, 2, 4 and 5 are residing at Venkalathur
Village, Cheyyar Taluk, Thiruvannamalai District.)
- 6.Sivagnanam
S/o Subramani,
Residing at No.1, Thiru Vi.Ka Street,
Chennai-600 007.Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988 against the award dated 06.09.2016
made in MCOP No.42 of 2014 on the file of Motor Accidents Claims
Tribunal, Sub Court, Cheyyar.

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.S.Makesh for R1 to R5
No appearance for R6

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 as against the award dated 06.09.2016 made in MCOP No.42 of 2014 on the file of Motor Accidents Claims Tribunal, Sub Court, Cheyyar.

2. The Insurance Company, which suffered an award for a sum of Rs.33,84,984/- is the appellant. The challenge is only to the quantum of compensation awarded. The parents and sisters were the claimants. They had claimed a sum of Rs.36,90,000/- as compensation. The deceased was working as an Engineer in Kyungshin Industrial Motherson Limited. The details of employment and salary are evidenced by Exs.P8 to P10, which are the copies of appointment order, promotion letter and salary certificate. Though it was originally contended that these three documents are xerox copies, the original records show that Exs.P9 and P10 are the originals. Ex.P10 is the computer print out. Ex.P10 shows that the deceased was drawing a salary of Rs.21,261/- on the date of the accident. The Tribunal has added 50% towards future prospects. Since the deceased was employed in a private company as per 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, the Tribunal should have awarded only 40% for the future prospects. Thus, worked out the loss of income would be $\text{Rs.}21,261/- \times 40/100 \times 12 \times 17 = \text{Rs.}30,36,030/-$ as against Rs.30,99,984/- awarded by the Tribunal. The Tribunal has awarded a further sum of Rs.2,50,000/- towards loss of love and affection. The same is on the higher side. It could be granted only to the parents and not to the sisters of the deceased. Therefore, the amount awarded under the said head is reduced to Rs.80,000/-. The Tribunal has awarded only Rs.10,000/- for transportation, damages and loss of estate, the same is increased to Rs.25,000/-. The amount awarded towards funeral expenses is sustained.

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

Loss of income	Rs.30,36,030/-
Loss of love and affection	Rs. 80,000/-
Funeral expenses	Rs. 25,000/-
Transportation, damages and loss of estate	Rs. 25,000/-
Total	Rs.31,51,030/-

The same is rounded off to Rs.31,50,000/-.

4. The Civil Miscellaneous appeal is partly allowed and the award of the Tribunal is modified to Rs.31,50,000/- (Rupees thirty one lakhs and fifty thousand only) as against the compensation of Rs.33,84,984/-with proportionate interest at 7.5% from the date of petition till the date of deposit payable to respondents 1 and 2 alone. The apportionment between respondents 1 and 2 is as follows:

The first respondent/father will get Rs.11,50,000/- and the second respondent/mother will get the remaining amount of Rs.20,00,000/-. Respondents 3 to 5 are married sisters of the deceased and hence, they are not entitled to any amount.

The appellant-Insurance Company is directed to deposit the award amount within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimants/respondents 1 and 2, being the parents of the deceased, are entitled to withdraw the same as per the apportionment made above. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

raa

To

1. The Motor Accidents Claims Tribunal, Sub Court, Cheyyar, Thiruvannamalai District.
2. The Section Officer, V.R. Section, Chennai-104.

+1cc to Mr.S.Makesh*, Advocate SR.No.60014

+1cc to Mr.S.Arunkumar, Advocate SR.No.59880

C.M.A.No.3215 of 2017

GMV (05/10/2018)