

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.K. SASIDHARAN
AND
THE HONOURABLE Mr.JUSTICE R. SUBRAMANIAN

CM.A.No.3250 of 2017 in
CMP.No.20274 of 2017

M/s. Reliance General Insurance Company Limited,
Rai's Tower, 2nd Floor,
2nd Avenue, Anna Nagar,
Chennai - 600 040.

... Appellant/2nd Respondent

Vs

1.Bashera,
2.Hazeena Begum,
3.Ushna Begum,
4.Halima Begum,
5.Mohammed Ismail
6.K. Natarajan

... Respondents 1 to 5/Claimants

... 6th Respondent/ 1st Respondent

PRAYER:Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1998, Civil Miscellaneous Appeal against the Judgment and Decree made in MCOP No.3017 of 2011 dated 08.12.2016, on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr. N. Vijayaraghavan

For Respondents : Mr. Suryanarayanan
for Mr. S. Ravi Kumar for R1 to R5

JUDGMENT

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

The Insurance Company challenges the Award of Rs.15,79,560/- granted by the Motor Accidents Claims Tribunal (II Court of Small Causes, Chennai), dated 08.12.2016 made in M.C.O.P.No.3017 of 2011.

2. The said Motor Accident Claims Original Petition was filed by Mr. M.D. Alam seeking a compensation of Rs.8,00,000/-

for injuries caused to him in the motor accident that took place on 04.07.2011.

3. Subsequently, the said Mr. M.D. Alam died on 10.12.2012 and the respondents 1 to 5 herein were brought on record as his legal representatives. The Tribunal awarded a sum of Rs.15,80,000/- to the claimants namely respondents 1 to 5 herein as compensation for the death of said Mr. M.D. Alam.

4. The Tribunal had fixed the income of the deceased at Rs.6,500/- per month adding 30% to his future prospects the Tribunal arrived at the monthly income of Rs.8,450/-. Since, the deceased was survived by 5 persons, the Tribunal deducted 1/5th towards his personal expenses and worked out the monthly pecuniary loss at Rs.6,760/-. The Tribunal adopted a multiplier of 13 and arrived at the pecuniary loss of Rs.10,54,560/-. The Tribunal awarded a sum of Rs.1,00,000/- for loss of love and affection for the claimants 2 to 5 and further awarded Rs.1,00,000/- for loss of consortium to the first claimant who is the widow of the deceased. Rs.25,000/- was awarded for funeral expenses and the total amount of compensation awarded by the Tribunal worked out Rs.15,79,560/- which was rounded off Rs.15,80,000/-. Aggrieved by the said Award, the Insurance Company has come forward with this appeal.

5. We have heard Mr. N. Vijayaraghavan learned counsel appearing for the appellant Insurance Company and Mr. Suryanarayanan learned counsel appearing for Mr. S. Ravi Kumar, learned counsel for the respondents 1 to 5. The 6th respondent remained ex-parte before the Tribunal and hence notice to him in this appeal is dispensed with.

6. Mr. N. Vijayaraghavan, learned counsel for the appellant is unable to challenge the quantum of income and the pecuniary loss that has been arrived at by the Tribunal as the same appears to be very reasonable. However, he would contend that the Tribunal awarded a sum of Rs.1,00,000/- to each for the children towards loss of love and affection, Rs.1,00,000/- to the wife towards consortium. He would submit that as per the judgment of the larger Bench of the Supreme Court in National Insurance Company Vs. Pranay Sethi reported in 2018(1) LW 331, the Tribunal should have awarded only Rs.40,000/- for loss of love and affection and Rs.40,000/- for loss of consortium to the wife.

7. It is his further submission that the compensation that was awarded on conventional heads namely the amounts awarded under the heads loss of love and affection and consortium are on the higher side. We are of the considered opinion that there is some force in the submissions of Mr. N. Vijayaraghavan. Mr.

Suryanarayanan appearing for the claimants is unable to counter the submissions of Mr. N. Vijayaraghavan in view of the decision of the Honourable Supreme Court in Pranay Sethi.

8. In view of the above, the award of the Tribunal needs modification and the same is modified as follows:

The sum of Rs.10,54,560/- awarded towards pecuniary loss is sustained; compensation for loss of love and affection is reduced to Rs. 40,000/- each for the children that is (40,000x4 = 1,60,000), compensation for loss of consortium awarded to the wife is reduced to Rs.40,000/- award of Rs.25,000/- towards funeral expenses is sustained. Thus the total compensation works out to Rs.12,79,560/- and the same is rounded off to Rs.12,80,000/-.

9. Therefore, the award is modified granting Rs.12,80,000/- instead of Rs.15,80,000/-. The modified award will carry an interest at the rate of 7.5% per annum from 16.08.2011 till date of payment with proportionate cost and the claimants are entitled for apportionment as fixed by the Tribunal the appeal is partly allowed as above. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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Motor Accidents Claims Tribunal,
II Court of Small Causes,
Chennai.

Copy to

The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.S.Ravikumar, Advocate Sr.55633
+1cc to Mr.N.Vijayaraghavan, Advocate Sr.55766

C.M.A.No.3250 of 2017 in
CMP.No.20274 of 2017

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srg 4/10/2018



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