

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM:

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

CMA No.3256 of 2017
and C.M.P.No.20287 of 2017

M/s.Royal Sundaram Alliance Insurance Company Ltd.,
Sundaram Towers,
Nos.45 & 46, Whites Road,
Chennai 600 014. ...Appellant/2nd Respondent

-vs-

1.J.Shobana ...1st Respondent/Petitioner
2.A.Rajendran
3.M.Maheswari
4.D.Mani ...2 to 4 Respondents/
Respondents 1,3 & 4

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicle Act, 1988 against the judgment and decree dated
28.04.2017 passed in M.C.O.P.No.76 of 2013 on the file of the
Motor Accidents Claims Tribunal, I Additional District and
Sessions Court, Vellore.

For Appellant : Mr.R.Mohan Babu
for Mr.M.B.Gopalan Associates

For Respondents: Mr.M.Sivakumar (For R1)
Not ready in notice (For R2)

M/s.S.Angamuthu
for Mr.M.Vinoth (For R3 & R4)

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J U D G M E N T

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

The Insurance Company challenges the award of a sum of
Rs.32,24,500/- for the death of one M.Jayaraman in a motor
accident that occurred on 21.12.2012.

2.The said M.Jayaraman was employed as a conductor in the
Transport Corporation and drawing a salary of Rs.11,689/- per
month. The Tribunal had adopted 100% towards future prospects
and arrived at a salary of Rs.23,378/-, after deducting 1/3

towards his personal expenses. The Tribunal fixed the monthly loss of income at Rs.15,585/-. Adopting the multiplier of '16', the Tribunal arrived at the total loss of dependency at Rs.29,92,320/-. A sum of Rs.1,00,000/- each towards loss of consortium and loss of love and affection was also awarded. The Tribunal awarded Rs.25,000/- towards funeral expenses, Rs.5,000/- towards transportation charges and Rs.2,000/- towards damage to clothes and articles. Thus, the total award works out to Rs.32,24,320/- which is rounded off to Rs.32,24,500/-.

3.We have heard Mr.R.Mohan Babu, learned counsel for the Insurance Company, Mr.M.Sivakumar, learned counsel for the 1st respondent and Mr.S.Angamuthu, learned counsel for the respondents 3 and 4.

4.The learned counsel for the appellant/Insurance Company would contend that the Tribunal erred in taking future prospects at 100%. Relying upon the judgment 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, the learned counsel has pointed out that the future prospects would be taken at 50% and not 100%. The learned counsel would also contend that the award under the conventional heads of loss of love and affection and loss of consortium are on the higher side.

5.We have considered the rival submissions. We find that the Tribunal's fixation of future prospects at 100% cannot be sustained in view of the judgment of the larger Bench of the Hon'ble Supreme Court in National Insurance Co. Ltd Vs. Pranay Sethi and others referred to supra. Therefore, the compensation has to be re-worked and the same is re-worked as:

The monthly income is fixed at Rs.11,689/-. Adding 50% towards future prospects, the monthly income for the purpose of calculation of the loss of dependency is worked out to Rs.17,533/-. Deducting 1/3 towards personal expenses, the monthly loss of dependency would be Rs.11,688/-. The total loss of dependency would be Rs.11688/- x 12 x 16 = Rs.22,44,096/-. The award of Rs.1,00,000/- for loss of consortium is on higher side and hence, the same is reduced to Rs.40,000/-. The parents of the deceased are entitled to certain amount towards loss of love and affection, which we fix at Rs.25,000/- each. Rs.15,000/- is granted towards loss of estate. Rs.25,000/- granted towards funeral expenses and Rs.5,000/- towards transportation charges are sustained.

6.Thus, the total award works out to Rs.23,79,096/- which is rounded off to Rs.23,80,000/- with 7.5% interest. It is stated that the Insurance Company has deposited 50% of the

award amount as directed by this Court. The Insurance Company is directed to deposit the balance amount within a period of six (6) weeks from the date of receipt of a copy of this order. On such deposit, the 1st respondent/wife will be entitled to withdraw a sum of Rs.16,00,000/- with proportionate interest and entire costs, 3rd respondent/mother of the deceased will take Rs.5,00,000/- with proportionate interest and 4th respondent/father of the deceased will take Rs.2,80,000/- with proportionate interest.

7.In fine, the appeal is allowed. However, there will be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-II)

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Sub Assistant Registrar

gsa

To

The Motor Accidents Claims Tribunal,
I Additional District and Sessions Judge,
Vellore.

- + 1 cc to MR. S. Angamuthu, Advocate Sr.62020
- + 1 cc to Mr. C. Prabakaran, Advocate Sr.62019
- + 1 cc to M/s. M.B. Gopalan, Advocate Sr.63203

CMA No.3256 of 2017
and C.M.P.No.20287 of 2017

SJ(CO)
EU(30/10/2018)

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