



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2018

CORAM

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

C.M.A.No.903 of 2018

M/s United India Insurance Company Limited
rep.by its Branch Manager
Rahavan Complex, Vellala Street
Ariyalur District 621 704

... Appellant/3rd Respondent

-Vs-

1. Mangaiyarkarasi, W/o Late Rajendran
2. Rajesh Kannan
3. Vijayakumar
4. Gowri

5. C.Murugesan ... Respondents 1 to 4/Claimants

6. M/s New India Assurance Company Limited
rep.by its Manager
No.128-A, Thiru Vi Ka Road
Villupuram District 605 602

7. V.Ravichandran .. Respondents 4 to 7/ Respondents 1, 2 & 4

Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 07.09.2017 made in M.C.O.P.No.162 of 2016 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Ariyalur.

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

For Respondents :: Mr.C.Jagadish
for R1, 3 & 4
Mr.V.Elangovan for R5 & 7
Mr.J.Michael Visuvasam for R6
R2 Served-No appearance



JUDGMENT

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

Challenge in this appeal by the Insurance Company is to the quantum of compensation awarded at Rs.37,63,000/- for the death of one Rajendran, who died in a motor accident that occurred on 5.4.2016.

2. We have heard Mr.Madhan Kumar, learned counsel for the appellant-Insurance Company, Mr.N.C.Ashok Kumar, learned counsel for the Claimants, Mr.V.Elangovan, learned counsel for the respondents 5 & 7 and Mr.J.Michael Visuvasam, learned counsel for the respondent no.6. The second respondent, though served, has not entered appearance through counsel.

3. Mr.Madhan Kumar, learned counsel appearing for the Insurance Company would restrict his arguments only to the quantum of compensation, that too, on the conventional heads. He does not dispute the loss of future income arrived at by the Tribunal. The Tribunal has awarded a sum of Rs.1,00,000/- towards loss of estate, Rs.1,00,000/- towards loss of consortium to the wife and Rs.3,00,000/- towards loss of love and affection at Rs.1,00,000/- each for the three children. Relying upon the judgment of the Larger Bench of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and others, 2018-1-L.W. 331, Mr.Madhan Kumar would contend that the award on the conventional heads is on the higher side.

4. Mr.N.C.Ashok Kumar, learned counsel appearing for the Claimants is unable to dispute the said contention of the learned counsel for the Insurance Company.

5. Considering the above submissions, we are of the view that the award of the Tribunal requires modification and it is accordingly modified as follows:-

Sl. No.	Heads	Amount
1	Loss of future income	Rs. 32,28,000/-
2	Loss of estate	Rs. 15,000/-
3	Loss of consortium to wife	Rs. 40,000/-
4	Loss of love and affection to 3 children	Rs. 1,20,000/-
5	Funeral expenses	Rs. 15,000/-
6	Transportation expenses	Rs. 10,000/-
Total		Rs. 34,28,000/-



6. However, the Tribunal has apportioned the negligence on the part of the two vehicles at 50%. The insurer of the other vehicle, namely, the sixth respondent has not challenged the award and it is stated that the sixth respondent has satisfied with the award. Therefore, the benefit of the modified award would apply only to the appellant-Insurance Company.

7. In fine, the civil miscellaneous appeal is partly allowed and the award of the Tribunal is modified and reduced to Rs.34,28,000/- with interest at 7.5% per annum from the date of petition till the date of payment and proportionate costs. It is stated that the appellant-Insurance Company has deposited its share of the compensation. The respondents-Claimants are permitted to withdraw the amount apportioned as follows:-

(i) The first respondent-Wife is entitled to Rs.13,28,000/- with proportionate interest and entire costs.

(ii) The respondent Nos.2, 3 & 4, who are the children, will take Rs.7,00,000/- each with proportionate interest.

(iii) The balance amount is to be paid over to the appellant-Insurance Company.

Consequently, C.M.P.No.7486 of 2018 is closed. There is no order as to costs in this appeal.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal
Ariyalur

+1cc to Mr.M.B.Gopalan Associates, Advocate, S.R.No. 65156

+1cc to Mr.C.Jagadish, Advocate, S.R.No. 64851

+1cc to Mr.V.Elangovan, Advocate, S.R.No. 64814

+1cc to Mr.J.Michael Visuvasam, Advocate, S.R.No. 64645

C.M.A.No.903 of 2018

TM(CO)
GN(03/12/2018)