

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

CMA No.928 of 2017 and
CMP No.4597 of 2017

The Oriental Insurance Company Ltd.,
No.59, Raja Street, Gobi - 638 476. Appellant

-vs-

1.Vijaya
2.Ramalingam
3.Mahavishnu
4.Thangavelu Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 27.08.2015 made in M.C.O.P.No.272 of 2011 on the file of the Motor Accident Claims Tribunal (IV Additional District Court), Erode District at Bhavani.

For Appellant : Mr.S.Manohar

For Respondents: Mr.R.Nalliyappan

J U D G M E N T

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

The Insurance Company is the appellant. The challenge in this appeal is to the quantum of compensation. The claimants are the parents of the deceased. He was aged about 27 years working as a Veterinary Assistant Surgeon in Government Service. The salary of the deceased was Rs.24,175/- per month.

2. The Tribunal has deducted 1/3 towards personal expenses and applied multiplier of "31" and arrived Pecuniary loss at Rs.53,95,860/-.

3. Mr.S.Manohar, learned counsel for the appellant - Insurance Company would submit that the adoption of multiplier of "31" and deduction of 1/3 towards personal expenses is not correct. Considering the fact that the deceased was a bachelor and the claimants are his parents, 50% should have been deducted towards personal expenses and the multiplier to be applied according to the decision of the Hon'ble Supreme

Court reported in (2009) 6 SCC 121 [Sarla Verma and others Vs. Delhi Transport Corporation and another] is "17".

4. The Tribunal has not awarded any amount towards future prospects. The deceased being a Government employee aged about 27 years, 50% has to be added towards future prospects. Thus, worked out, the pecuniary loss would be Rs.36,187.50. Deducting 1/2 of the amount towards personal expenses, the pecuniary loss would be Rs.18093.75 x 12 x 17 = Rs.36,91,125/-

5. The Tribunal has awarded Rs.2 lakhs towards loss of Love and Affection and the same is reduced to Rs.80,000/- in view of the larger bench judgment of the Hon'ble Supreme Court in National Insurance Co. Ltd., v. Pranay Sethi and others [2018 (1) L.W. 331]. The Tribunal has not granted any amount towards Loss of Estate. Hence, we award a sum of Rs.15,000/- towards loss of Estate.

6. Thus, the total compensation payable works out to:-

a) Pecuniary Los	: Rs. 36,91,125/-
b) Loss of Love and Affection	: Rs. 80,000/-
c) Transportation Charges	: Rs. 3,000/-
d) Funeral Expenses	: Rs. 10,000/-
e) Damage to Clothing	: Rs. 2,000/-
f) Loss of Estate	: Rs. 15,000/-
Total	: Rs. 38,01,125/-
Rounded off to	: Rs. 38,00,000/-

7. In the result, the Civil Miscellaneous Appeal is Partly Allowed as follows:-

(i) The award of the Tribunal is modified and reduced from Rs.56,10,860/- to Rs.38,00,000/-

(ii) The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit with proportionate costs.

iii) The compensation is apportioned as follows:-

a) The first respondent - mother of the deceased will be entitled to Rs.25,00,000/- with proportionate interest and entire costs.

b) The second respondent father of the deceased will be entitled to Rs.13,00,000/- each with proportionate interest.

iv) The appellant - Insurance Company is directed to deposit the modified award amount, less the amount, if any, already deposited, along with interest and costs within a period of four weeks from the date of receipt of a copy of this judgment.

v) On such deposit, the claimants are permitted to withdraw the entire amount as per the modified award passed by this Court by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursal of the amount as stated supra on filing of such application.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
(IV Additional District Court), Erode District at Bhavani.

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

+1cc to Mr.S.Manohar, Advocate SR.NO.59874

+1cc to Mr.R.Nalliappan, Advocate SR.NO.59211

VSN(co)

sm:22.10.2018

CMA No.928 of 2017

सत्यमेव जयते

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