

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1892 of 2017
and
C.M.P.No.10129 of 2017

Branch Manager,
Oriental Insurance Company Limited,
Easwaran Koil Street, 2nd floor,
Puducherry (EC Perinthalmanna, Royal Building,
Jublilee Junction, Malappuram District,
Kerala State). ... Appellant /2nd Respondent

Vs

1.Malar Kodi ... 1st Respondent (Claimant)

2.K.Prem Kumar ... 2nd Respondents/1st Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 29.03.2016 made in M.C.O.P.No.57 of 2012, on the file of Motor Accident Claims Tribunal, Subordinate Court, Panruti.

For Appellant : Mr.R.Mohan Babu for
Mr.N.Vijayaraghavan

For Respondent 1: Mr.P.Suresh

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the insurance company against the award of Rs.19,69,000/- for the death of one Mr.Mohan @ Mohan Kumar aged about 26 years, a car driver cum Car broker allegedly earning about a sum of Rs.30,000/- per month till the accident occurred on 06.03.2012, when the deceased was driving his car which was hit by a lorry insured with the appellant/insurance company, driven rashly and negligently.

2.Heard, Mr.R.Mohan Babu, learned counsel appearing for the appellant and Mr.P.Suresh, learned counsel appearing for the 1st respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The only question is with regard to the quantum of compensation as there is no appeal with regard to fixing of liability or negligence on the driver of the lorry.

4.Though the respondent claimed a sum of Rs.30,000/- as monthly income of the deceased, the tribunal determined the monthly income at Rs.12,000/- per month as he was a car driver

would submit that the deceased was a bachelor and therefore, 50% has to be deducted towards personal expenses whereas, the tribunal deducted 1/3rd towards the same. It is settled position of law that when a bachelor dies, 50% has to be deducted towards personal expenses. Accordingly, 50% is deducted instead of 1/3rd which was deducted by the tribunal. No amount was awarded towards future prospects by the tribunal and hence, 40% is awarded towards future prospects as proved by Ex.P.2. If 40% is added towards future prospects with the monthly income of Rs.12,000/-, the total monthly income would be Rs.16,800/-. If 50% is deducted towards personal expenses, the loss of dependency would be Rs.8,400/-.

6. The Tribunal applied multiplier "18" as per the age of the deceased whereas as per the Judgment in Sarla Verma's case, it is "17" and accordingly, applying the same, the loss of income would be Rs.17,13,600/- (Rs.8,400/- x 12 x 17).

7. Rs.25,000/- has been awarded towards Pain and sufferings by the tribunal and the same is enhanced to Rs.1,00,000/- as the deceased was admitted in hospital for a few days and thereafter, he died. The award of Rs.1,00,000/- towards loss of love and affection is on the higher side and the same is reduced to Rs.40,000/-. Rs.15,000/- awarded towards funeral expenses, Rs.15,000/- awarded towards Loss of estate, Rs.10,000/- awarded towards medical expenses and Rs.5,000/- awarded towards attendant charges are confirmed.

8. Rs.1,000/- awarded towards damages to properties is very low and the same is enhanced to Rs.25,000/-. Rs.10,000/- awarded towards transportation is very low and the same is enhanced to Rs.15,000/-.

SI. No.	Head	Amount (Rs.)
1.	Loss of income	17,13,600
2.	Pain and sufferings	1,00,000
3.	Loss of Love and affection	40,000
4.	Funeral expenses	15,000
5.	Loss of estate	15,000
6.	Medical expenses	10,000
7.	Attendant Charges	5,000
8.	Damages to properties	25,000
9.	Transportation	15,000
	Total	19,38,600
	Rounded off Value	19,39,000

<https://hcservices.ecourts.gov.in/Bcservices/> Therefore, the total compensation payable in this case is Rs.19,39,000/-. The interest awarded by the Tribunal at the rate of 7.5% per annum is confirmed.

10. The Insurance company is directed to deposit the award amount as per the modified award passed by this Court, within a period of six weeks from the date of receipt of a copy of this

to withdraw the interest thereon once in every two months.

11. Accordingly, this appeal is partly allowed, reducing the award of the Tribunal from Rs.19,69,000/- to Rs.19,39,000/- with interest. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

ay

To

1. The Subordinate Judge,
The Motor Accident Claims Tribunal,
Panruti.

2. The Section Officer,
VR Section, High Court,
Madras-104

+1cc to Mr. K.Moorthy, Advocate, S.R.No. 85396

+1cc to Mr. N.Vijayraghavan, Advocate, S.R.No. 85567

C.M.A.No.1892 of 2017
and

C.M.P.No.10129 of 2017

SV(CO)
GN(08/05/2019)

सत्यमेव जयते

WEB COPY