

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED:16.03.2018

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

CMA (MD)No.1206 of 2017
and
C.M.P. (MD) No.11903 of 2017

Reliance General Insurance Co. Ltd.,
through its Manager
Sri Meenakshi Plaza
1st Floor, Plot No.HIG 55,80 Feet Road,
Anna Nagar, Madurai
(Having their office at Madurai Road
Virudhunagar : Appellant /Respondent No.3

Vs

1.Packiam
2.Jeyamani
3.Rajammal : Respondents/Petitioners
4.Govindharaj
5.Syed Abuthakir : Respondents /Respondents

Appeal filed under Section 173 of the Motor Vehicles Act,
to set aside the fair and decretal order dated 21.06.2017 made in
M.C.O.P.No.27 of 2014 on the file of Motor Accident Claims
Tribunal, (Additional District Judge), Virudhunagar.

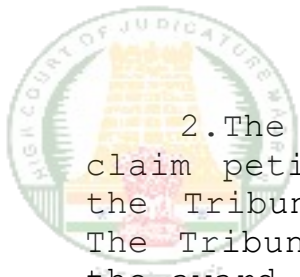
For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.S.M.Mohan Gandhi for RR1-3
No Appearance for RR4 and 5

ORDER

[Judgment of the Court was delivered by **S.VIMALA, J.**]

This appeal has been filed by the Insurance Company
challenging the quantum of compensation awarded in M.C.O.P.No.27
of 2014 dated 21.06.2017 on the file of the Motor Accident
Claims Tribunal, (Additional District Judge), Virudhunagar.



2.The wife and parents of the deceased Duraisamy have filed claim petition for compensation in M.C.O.P.No.27 of 2014 before the Tribunal claiming a sum of Rs.15,00,000/- as compensation. The Tribunal awarded a sum of Rs.15,10,000/- and the details of the award as follows:

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1.Loss of dependency	:	Rs.13,45,000.00
2.Loss of love and affection	:	Rs. 45,000.00
3.Loss of Consortium	:	Rs. 1,00,000.00
4.Funeral expenses	:	Rs. 20,000.00
Total		Rs.15,10,000.00

Challenging the quantum of compensation, the present appeal has been filed.

3.The learned counsel for the appellant would submit that the income as fixed by the Tribunal is excessive and the income has to be considered at a lower level, considering the fact that agriculture is not an income yielding profession.

4.So far as the counsel for the respondent/claimant is concerned, he would submit that according to the settled position in **Syed Sadiq Vs. Divisional Manager, United India Insurance Company reported in 2014(1) TNMAC 459**, the monetary income should be atleast Rs.6,500/- per month. So far as the future prospects is concerned, as per the Hon'ble Supreme court decision **National Insurance Company Limited Vs. Pranay Sethi and others**, 40% should be awarded as pointed by the learned counsel for the insurance company. Accordingly, the loss of monthly income is fixed as Rs.9,100/-. After deducting his personal expenses and applying multiplier, the loss of dependency would be Rs.11,64,800/- (Rs.9100x2/3x12x16). Adding award of Rs.70,000/- under other conventional heads and Rs.15,000/- towards transportation, the compensation would come to Rs.12,49,800 and it is rounded to Rs.12,50,000/-. Accordingly, the compensation awarded by Tribunal is reduced from Rs.15,10,000/- to Rs.12,50,000/-.

5.In the result, the civil miscellaneous appeal is partly allowed in the following terms.

(i) The Appellant Insurance Company Limited is directed to pay the compensation amount as modified by this Court along with proportionate interest and costs from the date of petition till the date of realisation, less the amount already deposited, if any, to the credit of M.C.O.P.No.27 of 2014, on the file of the Motor Accident Claims Tribunal, (Additional District Judge), Virudhunagar., within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the same shall be transferred through RTGS into the bank account of the claimants. The compensation amount has to be apportioned in the same ratio as directed by the Tribunal.



(ii) The Tribunal had awarded interest at 7.5% per annum from the date of filing of petition. The same is confirmed. Except the modification above, the award is confirmed in all other aspects.

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(iii) The claimants are permitted to withdraw their share amount that would be deposited by the Insurance Company, less the amount already withdrawn, if any, with proportionate interest and costs through RTGS. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Additional District Judge,
Motor Accident Claims Tribunal,
Virudhunagar.

+ 1 cc TO Mr.S.Srinivasa Raghavan , Advocate in SR No. 56041
+ 1 cc TO Mr.S.M.Mohan Gandhi , Advocate in SR No. 55844

Arul

AE/KKR/SAR1/31.05.2018/3P/4C

**CMA (MD) No.1206 of 2017
and
C.M.P. (MD) No.11903 of 2017
16.03.2018**