



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)Nos.559 and 560 of 2017

and

C.M.P. (MD)Nos.5994 and 5995 of 2017

The Manager,
United India Insurance Company Limited,
No.12A, Kovai Road,
PLA Building IInd Floor,
Karur.

... Appellant in both CMAs

vs.

1.Vennila
2.K.G.Prabakar
3.P.Makesh
4.The Manager,
Royal Sundaram Alliance Insurance Company Limited,
Sundaram Towers,
46, Whites Road,
Royapettah,
Chennai.

... Respondents in C.M.A(MD)No.559 of 2017

1.Saraswathi
2.Sangeetha
3.Suresh
4.P.Makesh
5.The Manager,
Royal Sundaram Alliance Insurance Company Limited,
Sundaram Towers,
46, Whites Road,
Royapettah,
Chennai.

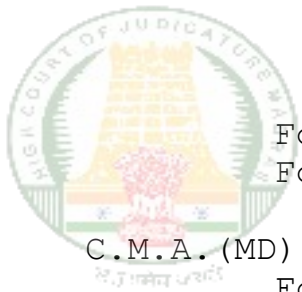
... Respondents in C.M.A(MD)No.560 of 2017

Appeals filed under Section 173 of the Motor Vehicles Act,
against the award and decree dated 21.09.2016 made in
M.C.O.P.Nos.281 and 526 of 2013 on the file of the Motor Accidents
Claims Tribunal (Principal District Judge), Karur.

C.M.A. (MD) No.559 of 2017

<https://hcservices.ecourts.gov.in/hcservices/>
For Appellant
For R1 and R2

: Mr.I.Suthakaran
: Mr.K.Suresh Kumar



For R3 : No appearance
For R4 : Mr.S.Srinivasa Raghavan

C.M.A.(MD) No.560 of 2017

For Appellant : Mr.I.Suthakaran
For R1 to R3 : Mr.K.Suresh Kumar
For R4 : No appearance
For R5 : Mr.S.Srinivasa Raghavan

WEB COPY

COMMON JUDGMENT

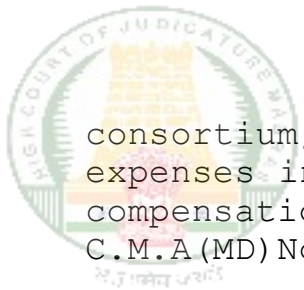
These Civil Miscellaneous Appeals have been filed against the award and decree dated 21.09.2016 made in M.C.O.P.Nos.281 and 526 of 2013 on the file of the Motor Accidents Claims Tribunal (Principal District Judge), Karur.

2.Both the cases arose out of fatal accident. After considering the oral and documentary evidence on either sides, the Tribunal awarded compensation of Rs.26,79,302/- and Rs.18,42,000/- with interest at 7.5% per annum, against which, the appellant/insurance company has filed these appeals challenging quantum of compensation.

3.Learned counsel for the appellant in both cases would contend that while awarding compensation towards loss of dependency, the Tribunal had failed to deduct 1/3rd of the income of the deceased towards the personal expenses. Except the above, no other points were urged.

4.Learned counsel for the claimants in both the cases would submit that no amount has been awarded towards future prospectus and as per the recent judgment of the Hon'ble Supreme Court in National Insurance Company Limited vs. Pranay Sethi and others (Special Leave Petition(Civil)No.25590 of 2014 dated 31.10.2017), 10% of the income should be added towards future prospects in both the cases.

5.I find merit in the above submissions made by the learned counsel for the appellant as well as claimants. The annual income of the deceased in both the cases is fixed as Rs.2,06,283/- and Rs.17,82,000/- respectively. After deducting 1/3rd towards personal expenses and adding 10% towards future prospects and also applying multiplier '11' and '9' respectively, the compensation awarded under the head, 'loss of dependency' in both the cases is modified as Rs.16,64,014/- and Rs.13,06,800/- respectively as against Rs.22,66,113/- and 17,82,000/- awarded by the Tribunal. Apart from the above, as per the recent judgment of the Hon'ble Supreme Court in *National Insurance Company Limited vs. Pranay Sethi and others (Special Leave Petition(Civil)No.25590 of 2014 dated 31.10.2017)*, under conventional heads, namely, loss of estate, loss of consortium and funeral expenses, Rs.15,000/-, Rs.10,000/- and Rs.15,000/- respectively are hereby awarded. Accordingly, the award of the Tribunal under the heads, loss of



consortium, love and affection transport expenses, funeral expenses in both the cases are set aside. Consequently, the total compensation in both the cases is modified as hereunder:-
C.M.A(MD)No.559 of 2017

Loss of dependency	=	Rs.16,64,014/-
Loss of consortium	=	Rs. 40,000/-
Loss of estate	=	Rs. 15,000/-
Funeral expenses	=	Rs. 15,000/-
Medical expenses	=	Rs. 3,59,689/-

Modified compensation	=	Rs.20,93,703/-
(Less) Amount awarded by the Tribunal	=	Rs.26,79,302/-

Reduction in compensation	=	Rs.5,85,599/-

C.M.A(MD)No.560 of 2017

Loss of dependency	=	Rs.13,06,800/-
Loss of consortium	=	Rs. 40,000/-
Loss of estate	=	Rs. 15,000/-
Funeral expenses	=	Rs. 15,000/-

Modified compensation	=	Rs.13,76,800/-
(Less) Amount awarded by the Tribunal	=	Rs.18,42,000/-

Reduction in compensation	=	Rs.4,65,200/-

6.The appellant both the cases is directed to deposit Rs.20,93,703/- and Rs.13,76,800/- with interest at 7.5% per annum from the date of petition till the date of deposit, less the amount already deposited, if any, to the credit of the claim petitions within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents/claimants in both the cases are permitted to withdraw their respective shares with proportionate accrued interest without filing any formal petition before the Tribunal.

Accordingly, these Civil Miscellaneous Appeals are allowed in part. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/
Assistant Registrar(RTI)

/True copy/



To

The Principal District Judge,
Motor Accidents Claims Tribunal,
Karur.

WEB COPY

Copy to:
The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. **(2 COPIES)**

+2cc to Mr.I.SUTHAKARAN, Advocate, SR.No. 60504,60505
+2cc to Mr.K.SURESH KUMAR, Advocate, SR.No.60593,60594

C.M.A (MD) Nos.559 and 560 of 2017
10.04.2018

BALA/MM
KK/SV MMS/SAR-2/22.05.2018/4P-8C