



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2018

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A (MD) No.670 of 2018
and
C.M.P (D) No.7785 of 2018

The National Insurance Company Limited,
By its Branch Manager,
Big Street,
Kumbakonam Town.

... Appellant/Respondent -2

vs.

1.K.Nagaraj
2.Kalyani
3.Salamath Bus Service,
By its Proprietor,
16, Ponnusamy Nagar,
Kumbakonam.

... 1st Respondent/Petitioner -1
... 2nd Respondent/Petitioner -2

...3rd Respondent/Respondent-1

Prayer: The appeal filed under Section 173 of Motor Vehicle Act, 1988, against the Judgment and decree made in M.C.O.P.No.53 of 2010, dated 20.12.2013 passed by the Motor Accident Claims Tribunal, Principal Sub Court, Kumbakonam.

For Appellant : Mr.D.Sivaraman
For R1 & R2 : Mr.S.Chellapandian

JUDGMENT

Being aggrieved by the award passed by the Motor Accident Claims Tribunal, Principal Sub Court, Kumbakonam, in M.C.O.P.No.53 of 2010, dated 20.12.2013, the appellant Insurance Company has filed the present appeal.

2.The appellant Insurance Company is the second respondent in M.C.O.P.No.53 of 2010, on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Kumbakonam. The respondents 1 & 2 are the claimants, filed a claim petition claiming a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) as compensation, for the death of one Shanmugam, son of the respondents 1 & 2 in the accident that occurred on 17.10.2009. The Tribunal awarded a total sum of Rs.10,89,000/- as compensation.



3. In the present appeal, the only issue to be decided is, whether the compensation awarded by the Tribunal is just and proper.

4. I have heard the learned counsel appearing for the appellant and the respondents 1 & 2 and perused the materials available on record.

5. According to the respondents 1 & 2, their son was mechanic and was earning a sum of Rs.6,000/- per month. The Tribunal accepted the same and deducted 1/3rd towards his personal expenses while calculating the amounts payable towards loss of income. The deceased was bachelor at the time of death. The Tribunal ought to have deducted 50% towards personal expenses while calculating the loss of income. The Tribunal did not add any amount towards future prospects. The deceased was aged 24 years at the time of accident. The Tribunal ought to have added 40% towards future prospects and deducted 50% from the total amount.

6. Considering the above said submissions, the award of the Tribunal with regard to loss of income, is modified as follows:-

Monthly income of the deceased is Rs.6,000/- and after adding 40% towards future prospects, the monthly income of the deceased would be Rs.8,400/- [6,000 + 2,400=8,400] and after deducting 50% towards his personal expenses, the loss of income would be Rs.9,07,200/- [4,200 x 12 x 18 = 9,07,200/-].

7. As far as compensation under the conventional head is concerned, the legal heirs of the deceased are entitled to get a sum of Rs.70,000/-. In the present case, the Tribunal has awarded a sum of Rs.2,25,000/- under different heads, which is excessive and the same is set aside. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed.

7. In view of the settled position of law, this Court modifies the award of the Tribunal by reducing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of income	8,64,000	9,07,200	enhanced
2.	For loss of Consortium	2,00,000		Set aside
3.	Funeral expenses	25,000		Set aside

4.	Conventional damages		70,000	awarded
	Total	Rs.10,89,000	Rs.9,77,200	By reducing a sum of Rs.1,11,800/-

8. With the above modification, the Civil Miscellaneous Appeal is partly allowed. The respondents 1 & 2 are entitled to a sum of **Rs.9,77,200/-**. The appellant Insurance Company is directed to deposit the modified award amount along with accrued interest and costs, less the amount already deposited, if any, to the credit of M.C.O.P.No.53 of 2010, on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Kumbakonam, within a period of **eight weeks** from the date of receipt of copy of this judgment.

9. On such deposit being made, the respondents 1 & 2 are permitted to withdraw a sum of Rs.4,88,600/- each (Total Rs.9,77,200) with proportionate interest and costs by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Kumbakonam.
2. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 84844

AM

TE/SKN/SAR-4 : 13/12/2018 : 3P/5C

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