



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1027 of 2018

and

C.M.P.No.8308 of 2018

M/s.Reliance General Insurance Co. Ltd. .. Appellant

Vs.

1.Meyyazhagi

2.V.Sandhi Veeran

3.A.Ashok Babu .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 18.09.2017 made in M.C.O.P.No.4330 of 2008 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

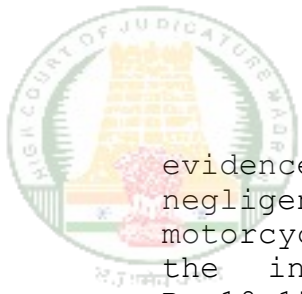
For Appellant : Mr.S.Arunkumar

For RR1 & 2 : Mr.K.Varadha Kamaraj

#### J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company, challenging the award dated 18.09.2017 made in M.C.O.P.No.4330 of 2008 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

2.The appellant/Insurance Company is 2<sup>nd</sup> respondent in M.C.O.P.No.4330 of 2008 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai. The respondents 1 & 2 filed the said claim petition claiming a sum of Rs.6,50,000/- as compensation for the death of their son viz., Chandrabose, who died in the accident that took place on 21.04.2007. The Tribunal, considering the pleadings, oral and documentary



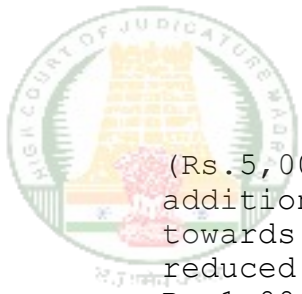
evidence, held that the accident occurred due to rash and negligent riding by the 3rd respondent/rider-cum-owner of the motorcycle and directed the appellant/Insurance Company being the insurer of the said motorcycle to pay a sum of Rs.10,15,000/- as compensation to the respondents 1 & 2. Against the said award dated 18.09.2017 made in M.C.O.P.No.4330 of 2008, granting compensation to the respondents 1 & 2, the appellant/Insurance Company has come out with the present appeal challenging the quantum of compensation awarded by the Tribunal.

3.The learned counsel appearing for the appellant/Insurance Company contended that the Tribunal in the absence of any material evidence with regard to avocation of the deceased, erroneously fixed a sum of Rs.5,000/- per month as notional income of the deceased and added 50% enhancement towards future prospects. The amounts awarded by the Tribunal under the heads of loss of love & affection, funeral expenses and medical expenses are excessive and prayed for setting aside the award of the Tribunal.

4.Per contra, the learned counsel appearing for the respondents 1 & 2 contended that the deceased was a Sales Executive and was earning a sum of Rs.5,000/- per month. The accident is of the year 2007 and the notional income fixed by the Tribunal is not excessive. The Tribunal after considering both oral and documentary evidence in proper perspective, has awarded compensation, which is not excessive and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant/Insurance Company as well as the learned counsel appearing for the respondents 1 & 2 and perused the materials available on record.

6.From the materials available on record, it is seen that the Tribunal has granted 50% enhancement towards future prospects and the same is erroneous. The respondents 1 & 2 are entitled to only 40% enhancement towards future prospects as per the judgment of the Hon'ble Apex Court. The deceased was a bachelor and was aged 27 years at the time of the accident. The Tribunal has applied multiplier '17' and deducted 50% towards personal expenses. In the absence of any material evidence, the Tribunal has fixed a sum of Rs.5,000/- per month as notional income of the deceased. The amount awarded by the Tribunal towards loss of dependency is modified to Rs.7,14,000/-



(Rs.5,000/- + 2,000 (Rs.5,000/- x 40%) x 12 x 17 x 50/100). In addition to that the Tribunal has awarded a sum of Rs.25,000/- towards funeral expenses, which is excessive and the same is reduced to Rs.15,000/-. The Tribunal has awarded a sum of Rs.1,00,000/- each towards loss of love & affection to the respondents 1 & 2 and the same is excessive and the respondents 1 & 2 are entitled to a sum of Rs.40,000/- each towards loss of love & affection. The Tribunal has not awarded any amount towards loss of estate. A sum of Rs.15,000/- is granted towards loss of estate. The amount awarded by the Tribunal towards medical expenses is just and reasonable and the same is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

| S.No | Description              | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|------|--------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.   | Loss of dependency       | 7,65,000                        | 7,14,000                          | Reduced                                |
| 2.   | Loss of love & affection | 2,00,000                        | 80,000                            | Reduced                                |
| 3.   | Funeral expenses         | 25,000                          | 15,000                            | Reduced                                |
| 4.   | Medical expenses         | 25,000                          | 25,000                            | Confirmed                              |
| 5.   | Loss of estate           | -                               | 15,000                            | Granted                                |
|      | Total                    | Rs.10,15,000/-                  | Rs.8,49,000/-                     | Reduced by Rs.1,66,000/-               |

7. With the above modification, the Civil Miscellaneous Appeal is partly allowed. The compensation of Rs.10,15,000/- awarded by the Tribunal is hereby reduced to Rs.8,49,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondents 1 and 2 being parents of the deceased are entitled to a sum of Rs.4,24,500/- each as compensation. The appellant/Insurance Company is directed to deposit the modified award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 & 2/claimants are permitted to withdraw their respective share of the award amount along with proportionate interest and costs, after adjusting the amount if any, already withdrawn. The



appellant/Insurance Company is permitted to withdraw the excess amount lying in the deposit to the credit of M.C.O.P.No.4330 of 2008, if the entire award amount has already been deposited by them. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

kj

To

1.The IV Judge,  
Court of Small Causes,  
Motor Accidents Claims Tribunal,  
Chennai.

2.The Section Officer,  
V.R. Section, High Court, Madras.

+1 cc to M/s.K.Varadha Kamaraj, Advocate, S.R.No.41417

+1 cc to M/s.S.Arun Kumar, Advocate, S.R.No.41179

C.M.A.No.1027 of 2018  
and  
C.M.P.No.8308 of 2018

RR(CO)  
SSM(09/10/2019) .