

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2019

Coram

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.M.A.No.982 of 2015
and
M.P.No.1 of 2015

Shriram General Insurance Co. Ltd.,
No.66, 2nd Floor, City Centre Complex,
Thirumala Pillai Road, T.Nagar,
Chennai - 17. ... Appellant /2nd Respondent

vs.

1.P.Balaparameswari
2.Minor Karthik
3.Minor Vidhyalakshmi
4.A.Saradha ... Respondents/Petitioner

(Minor respondents 2 and 3 rep. by
their mother and next friend R1)

5.K.Ganesan ... Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act,
1988, against the decree and judgment dated 03.11.2014 made in
M.C.O.P.No.2358 of 2013 on the file of Motor Accidents Claims
Tribunal (II Court of Small Causes), Chennai.

For Appellant : Mr.S.Dhakshnamoorthy

For Respondents : Mr.N.M.Muthurajan

1 to 4

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

Since this appeal is filed, questioning the quantum of
compensation only, we are not inclined to go into the negligence
aspect.

2.The deceased, who was working as a Driver with M/s.Sri Valluvar Travels, Tambaram, Chennai, met with an accident on 19.11.2012 and succumbed to the injuries the next day. The claimants are the wife and two minor children apart from the mother of the deceased. The Tribunal took into consideration the monthly income of the deceased at Rs.10,000/- though a sum of Rs.12,000/- was claimed and by adding future prospects at 50%, it was fixed at Rs.15,000/-. Multiplier of 16 was adopted and after adding the conventional damages, a total sum of Rs. 24,10,000/- was awarded as compensation.

3.Learned counsel appearing for the appellant would submit that there is no basis for fixing the income at Rs.10,000/- per month. He further submits that the Tribunal has fixed 50% towards future prospects as against 40%.

4.Learned counsel appearing for the respondents submits that the award of the Tribunal requires no interference as the claimants are young widow, two minor children and the mother.

5.Insofar as the income fixed at Rs.10,000/- per month, we find that the award of the Tribunal is just and fair. Admittedly, the deceased worked as a Driver. Though a sum of Rs.12,000/- was claimed as monthly income, the Tribunal has fixed only Rs.10,000/-, which cannot be faulted. However, we find that the Tribunal has taken into consideration 50% towards future prospects instead of 40% as per the judgment of the Apex Court in National Insurance Company Limited Vs. Pranay Sethi and Others ((2017) 16 SCC 680). Thus, we are inclined to take only 40% towards future prospects. Accordingly, the pecuniary loss is calculated at Rs.20,16,000/- (Rs.14,000/- x 1/4 = Rs.10,500/- x 12 x 16 = Rs.20,16,000/-). We are also not interfering with the amount fixed towards loss of consortium, funeral expenses and loss of love and affection at Rs.1,00,000/-, Rs.25,000/- and Rs.1,25,000/- respectively. Accordingly, we fix a sum of Rs.22,66,000 towards the total compensation payable, which is rounded off to Rs.22,70,000/-. The modified compensation amount shall be apportioned amongst the claimants on pro-rata basis as ordered by the Tribunal.

6.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

7.The appellant insurance company is directed to deposit the modified compensation amount along with proportionate interest, less the amount, if any, already deposited, to the credit of M.C.O.P.No.2358 of 2013 on the file of Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai within a

period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, claimants 1 and 4/respondents 1 and 4 are permitted to withdraw their respective shares along with accrued interest. Insofar as the compensation amount payable to minor claimants 2 and 3, the same shall be invested in a nationalised bank for a period of three years, which shall be renewed periodically till the minors attain majority. The first claimant is permitted to withdraw the interest accrued on minors' deposit once in three months directly from the bank.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mmi
To

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

2.The Record Keeper,
V.R. Section, High Court, Madras.

+lcc to M/S.N.M.Muthurajan, Advocate Sr.14407

+lcc to to M/S.S.Dhakshnamoorthy, Advocate Sr.14455

C.M.A.No.982 of 2015

ppa[co]
srg 09/07/2019

WEB COPY