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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2019

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH  
AND  
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No. 990 of 2015

National Insurance Co., Ltd  
No.751, Anna Salai,  
2<sup>nd</sup> Floor, Chennai - 2.

... Appellant/2<sup>nd</sup> Respondent

Vs.

1.Anbarasi  
2.Minor D.Madhumithra  
3.Minor D.Yogeswari  
4.K.Subramani  
(Minors 2 & 3 rep by their  
mohter N.F 1<sup>st</sup> Respondent Anbarasi)

...1 to 3 Respondents/ Petitioners  
...4<sup>th</sup> Respondent/1<sup>st</sup> Respondent

PRAYER : Appeal filed under Section 173 of Motor Vehicles Act,1988 against the award and decree dated 06.08.2014 made in M.C.O.P.No.2181 of 2013 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.S.Arunkumar

For Respondent : Mr.K.Varadha Kamaraj  
for R1 to R3

JUDGMENT

(Delivered by M.M.SUNDRESH.,J)

The appellant is the insurer of the Lorry which was responsible for the fatal accident along with the car in which the deceased was travelling.

2. The deceased was travelling in Innova Car bearing Registration No.TN-05-AF-0712 which dashed against the lorry bearing Registration No.TN-47-M-0578. Due to the accident caused, the deceased died. Respondents 1 to 3 are the claimants, being the wife and the two minor children of the deceased. The





8. It appears that the fourth respondent herein is not even the owner of the vehicle and therefore the recording made by us earlier may not be correct. Unfortunately, neither the owner of the car which was involved in the accident nor the insurer has been made as a party. However, claimants/respondents 1 to 3, shall not suffer for the same. Thus, we are inclined to direct the appellant to make the entire compensation.

9. Insofar as the quantum is concerned, by applying the case of Pranay Sethi (supra), we are inclined to reduce the future prospects from 50% to 40%. Accordingly, the annual income arrived at Rs.3,36,000/- per year. Thus, the loss of income, has been fixed at Rs.33,60,000/- (Rs.3,36,000/- x 1/3 x 15 = Rs.33,60,000/-). After due deduction of one-third amount towards the personal expenses of the deceased and by adding the other conventional heads such as loss of consortium at Rs.40,000/-, loss of love and affection at Rs.80,000/-, funeral expenses at Rs.15,000/- and loss of estate at Rs.15,000/-, total compensation arrived at is Rs.35,10,000/- with 7.5% interest. This, we do so after making due deductions from the award passed by the Tribunal, wherein for loss of consortium, sum of Rs.1 lakh has been awarded apart from loss of love and affection at Rs.2 lakhs. Similarly, the funeral expenses has been fixed at Rs.25,000/-. The reduced compensation amount shall be apportioned amongst the claimants in the same ratio as ordered by the Tribunal.

10. In the result, the Civil Miscellaneous Appeal stands allowed in part. No costs. Consequently, connected C.M.P.No.26464 of 2014 is closed. However, we also give liberty to the appellant to work out the remedy against the other tort-feasors in tune with the judgment of Apex Court Khenyei Vs. New India Assurance Company Ltd., & Ors (2015 (1) TNMAC 801 (SC)).

11. The appellant insurance company is directed to deposit the reduced compensation amount along with proportionate interest, less the amount if any already deposited, to the credit of M.C.O.P.No.2181 of 2013 on the file of the 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 the judgment.

12. We also direct the Tribunal to transfer the share of the first claimant by way of RTGS to the bank account of the first claimant within a period of three weeks from the date of deposit of the award amount. On such transfer, the first claimant is entitled to withdraw the same. Insofar as the share of minor second and third claimants are concerned, the same shall be deposited in any one of the nationalised banks till they attain



majority. The first claimant/mother of minor claimants 2 and 3 is permitted to withdraw the interest accrued on the minors' deposit once in three months directly from the Bank.

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Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssm  
To

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

Copy to:  
The Section Officer,  
VR Section, High Court, Madras.

+lcc to Mr.S.Arunkumar, Advocate SR.No. 102973  
+lcc to K.Varadha Kamaraj, Advocate SR.No. 102428  
C.M.A.No. 990 of 2015

BP(CO)  
A.SK(06.09.2021)