

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.04.2019

Coram

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

C.M.A.No.2181 of 2019
and CMP No.9005 of 2019

Reliance General Insurance Co. Ltd.,
VI Floor, 6, Haddows Road,
Chennai - 6. ... Appellant/2nd Respondent

vs.

1.S.Iswarya
2.Minor S.Rutwa
rep. by mother and next friend R1
3.P.Sekar
4.S.Saroja ... Respondents 1 to 4/
Petitioners
5.K.Boopathy ... 5th Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act,
1988, against the fair and decretal order dated 28.11.2018 in
M.C.O.P.No.8948 of 2015 on the file of Motor Accidents Claims
Tribunal (Special Sub Court No.I), Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.S.Udayakumar
for R1 to R4 (Caveator)

JUDGMENT

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

This appeal is arising out of the fair and decretal order
dated 28.11.2018 in M.C.O.P.No.8948 of 2015 on the file of Motor
Accidents Claims Tribunal (Special Sub Court No.I), Chennai.

2.As the present appeal is filed questioning only the
quantum, the background facts are not placed on record.

3.The deceased was aged about 32 years at the time of accident. He was earning Rs.81,740/- per month after deduction. The Tribunal made a deduction of 1/4th amount while adopting multiplier of 16. Accordingly, total loss of dependency was taken as Rs.1,64,78,784/-. The Tribunal while fixing the loss of dependency has only added 40% towards future prospects. Insofar as the other conventional heads, there is no dispute and the following is the calculation arrived by the Tribunal:

Total loss of dependency	.. Rs.1,64,78,784/-
Loss of consortium	.. Rs. 40,000/-
Loss of love and affection	.. Rs. 1,00,000/-
Loss of estate	.. Rs. 15,000/-
Transport charges	.. Rs. 5,000/-
Funeral expenses	.. Rs. 15,000/-
	=====
Total	.. Rs.1,66,53,784/-
	=====

4.Learned counsel appearing for the appellant would submit that the Tribunal committed an error in deducting 1/4th amount as against 1/3rd amount towards the personal expenses of the deceased. Learned counsel appearing for respondents 1 to 4/claimants would submit that the Tribunal also committed an error in awarding 40% towards future prospects as against 50% as the deceased was working as Software Engineer in permanent job. Both the counsel would fairly submit that under those circumstances, it would be appropriate to take the following total compensation:

Loss of income (Rs.81,740/- + 50% - 1/3x12x16)	.. Rs.1,56,94,080/-
Loss of love and affection	.. Rs. 50,000/-
Loss of consortium	.. Rs. 40,000/-
Loss of estate	.. Rs. 15,000/-
Transport and Funeral expenses	.. Rs. 15,000/-
	=====
Total	.. Rs.1,58,14,080/-
	=====

5.Deducting 1/3rd towards the personal expenses of the deceased and adding 50% towards future prospects, a sum of Rs.1,58,14,080/- has been arrived as total compensation. Similarly, it is agreed that insofar as loss of love and affection is concerned, Rs.1 lakh awarded by the Tribunal is excessive and therefore Rs.40,000/- will have to be taken in terms of the judgment of the Apex Court in National Insurance Co. Ltd vs Pranay Sethi and others (2017 (2) TN MAC 271).

6.Insofar as the apportionment is concerned, considering the submission made by the learned counsel for the claimants, the parents of the deceased are entitled for Rs.15 lakhs each and the compensation directed to be paid in favour of the child is not disturbed. However, the compensation awarded to the wife is reduced to Rs.28,14,080/- as she is also getting shares of the company in which the deceased was working.

7.In the result, the compensation awarded by the Tribunal is reduced to Rs.1,58,14,080/- payable with interest at 7.5% per annum and the Civil Miscellaneous Appeal is partly allowed. No costs.

8.The appellant insurance company is directed to deposit the reduced compensation amount together with interest at 7.5% per annum, less the amount if any already deposited, to the credit of M.C.O.P.No.8948 of 2015 on the file of Motor Accidents Claims Tribunal (Special Sub Court No.I), Chennai, within a period of six weeks from the date of receipt of a copy of the judgment.

9.On such deposit, claimants 1, 3 and 4/respondents 1, 3 and 4 are permitted to withdraw their respective shares. Insofar as the amount payable to the minor second claimant, the same shall be invested in a nationalised bank under reinvestment scheme till he attains majority. The first claimant-mother is permitted to withdraw the accrued interest on the minor's deposit directly from the Bank once in six months, periodically. The Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mmi

To

The Special Subordinate Judge, Motor Accidents Claims Tribunal
Chennai.

+1 cc to M/s.S.Arunkumar, Advocate, Sr.No. 35417

+1 cc to Mr.S.Udayakumar, Advocate, Sr.No. 35151

C.M.A.No.2181 of 2019

RJI (CO)
CSL/05.07.2019