

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2019

CORAM

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

C.M.A.No.1232 of 2018

1.Sudha Rani
2.Minor Sakthivel
3.Kalaiselvi (unsound mind) ... Appellants/Petitioners

(minor second appellant and unsound
mind third appellant are rep. by
guardian first appellant)

Vs.

1.Sumathi
2.United India Insurance Co. Ltd.,
B.O.1, No.114/120 Super Bazaar,
Trichy. Respondents/Respondents

(R1 remained exparte before the Tribunal)

Appeal filed under Section 173 of Motor Vehicles Act, 1988
against the order dated 13.06.2012 passed in MCOP No.170 of 2010
on the file of the Motor Accidents Claims Tribunal (Subordinate
Judge), Ariyalur.

For Appellants : Mr.G.Perumal

For Respondents : Mr.S.Arun Kumar for R2

JUDGMENT

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

The appellants are the daughter, minor son and the wife of
the deceased. The deceased died in an accident on 22.04.2010.
Though a sum of Rs.50 lakhs has been claimed by the appellants,
the Tribunal has awarded only a sum of Rs.8 lakhs. Seeking
enhancement, the present appeal has been filed.

2.Learned counsel appearing for the appellants submitted
that admittedly the deceased was an Engineering graduate. The

Tribunal has wrongly disbelieved the salary certificate produced by the appellants from the employer concerned. No amount has been fixed towards the future prospects. Therefore, the appeal will have to be allowed.

3.Learned counsel appearing for the second respondent insurance company submitted that though in law the appellants are entitled for the future prospects of the deceased, the claim made in this appeal is excessive. The Tribunal rightly declined to consider the salary certificate filed as Ex.P5 since there was no supporting evidence either in the form of documentary or oral. Therefore, the prayer as sought for by the appellants cannot be granted.

4.The appellants are three in number. The third appellant, who is the wife of the deceased, is stated to be a mentally deranged person. We are concerned with the quantum of compensation alone. The educational qualification of the deceased is also not in dispute, being an Engineering graduate. Though we do not find any error in the award passed by the Tribunal in disbelieving Ex.P5, fixing the income at Rs.6,000/- per month, in our considered view, is too low. The deceased was managing himself and the family. Being an Engineering graduate, he would have earned at least Rs.10,000/- per month. Since there are three dependents, appropriate deduction would be only 1/3rd and the appropriate multiplier to be adopted is 14. The future prospects should be taken at 25%, which has not been done.

5.Considering the above, fixing the monthly income at Rs.10,000/- and by adding 25% towards future prospects and deducting 1/3rd amount towards the personal expenses of the deceased and applying 14 multiplier, we are inclined to fix the loss of income at Rs.14,00,112/-. After adding conventional heads viz., Rs.40,000/- for loss of consortium to the wife of the deceased, Rs.40,000/- each to the children of the deceased for loss of love and affection, Rs.15,000/- towards funeral expenses and Rs.15,000/- for loss of estate, we arrive at the total compensation of Rs.15,50,112/-and the same is rounded off to Rs.15,50,000/- . The rate of interest ordered by the Tribunal stands confirmed.

6. Accordingly, the Civil Miscellaneous Appeal stands allowed. No costs.

7.The second respondent insurance company is directed to deposit the enhanced compensation amount awarded by this Court along with proportionate interest, less the amount if any already deposited, to the credit of MCOP No.170 of 2010 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Ariyalur within a period of eight weeks from the date of receipt

of a copy of the judgment.

8.We also direct the Tribunal to transfer the entire amount deposited by way of RTGS to the bank accounts of claimants 1 and 3 within a period of three weeks from the date of deposit of the award amount. On such transfer, claimants 1 and 3 are entitled to withdraw the same. Insofar as the share of the minor second claimant is concerned, the Tribunal is directed to invest the same in fixed deposit in any one of the nationalised banks till he attains majority.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal
(Subordinate Judge), Ariyalur.

Copy To

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

+1cc to Mr.G.Perumal, Advocate, S.R.No. 103880

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No. 104174

सत्यमेव जयते

C.M.A.No. 1232 of 2018

RSI (CO)
GN (27/01/2020)

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