

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.1347 & 34 of 2018
and
C.M.P.No.10785 of 2018

C.M.A.No.1347 of 2018

IFFCO - TOKIO
General Insurance Company Ltd.,
No.28, 2nd Floor, North Usman Road,
T.Nagar, Chennai - 600 017. ... Appellant/2nd Respondent

Vs

1.Vanitha
2.Minor Sharan Christina
3.Kantha
4.Minor Shinoy Crazy Bhaskar
(Minor appellants pleaded as per order in
M.P.No.366 of 2014 dated 18.12.2014)
(Minors represented by mother Vanitha)

5.M/s.Credential Technologies Pvt. Ltd.,
R.S.No.5/13 & 5/15 Road,
Mylam Road, Sedarpet,
Pondicherry - 605 111.
(Set Ex.Parte before the Trial Court)

...Respondents

C.M.A.No.34 of 2018

1.Vanitha
2.Minor Sharan Christina
3.Kantha
4.Minor Shinoy Crazy Bhaskar
(Minor petitioner pleaded as per order in
M.P.No.366 of 2014 dated 18.12.2014)

(Minors represented by mother Vanitha)

...Appellants/Petitioner

Vs.

1.M/s.Credential Technologies Pvt. Ltd.,
R.S.No.5/13 & 5/15 Road,
Mylam Road, Sedarpet,
Pondicherry - 605 111.

(Since 1st respondent remained exparte before
the tribunal its presence may be dispensed with)

2.IFFCO - TOKIO General Insurance Company Ltd.,
No.28, 2nd Floor, North Usman Road,
T.Nagar,
Chennai - 600 017. Respondents/Respondents

COMMON PRAYER : Civil Miscellaneous Appeals filed under Section
173 of the Motor Vehicles Act, 1988 against the Judgment and
Decree passed in M.C.O.P.No.1356 of 2010 dated 20.09.2016 on the
file of the Motor Accident Claims Tribunal (Special Sub Court
No.2, Motor Accident Claims Petitions), Small Causes Court,
Chennai.

For Appellant in C.M.A.No.1347 of 2018 : Mrs.K.Saraswathi for

Mr.C.R.Krishnamoorthy

For Respondents1- 4 in C.M.A.No.1347 of 2018

: Mr.F.Terry Chellaraja

For Appellants in C.M.A.No.34 of 2018 : Mr.F.Terry Chellaraja

For 2nd Respondent in C.M.A.No.34 of 2018:Mrs.K.Saraswathi for
Mr.C.R.Krishnamoorthy

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeals have been preferred by both the Insurance
Company as well as claimants aggrieved over the quantum of
compensation of Rs.37,50,000/- awarded for the death of one
Mr.Baskar aged about 31 years, a business man, being a partner
in two partnership firms, allegedly earning about Rs.40,000/-
per month, in the accident occurred on 26.09.2009, when he was
driving his car from Pondicherry to Thindivanam which was hit by
a mini lorry coming in the opposite direction insured with the
insurance company driven rash and negligently.

2.Heard Mr.R.Krishnamoorthy and Mr.F.Terry Chellaraja,
learned Counsel for the parties and perused the records.

3.Questioning the quantum only, both the appeals have been filed and therefore, the negligence aspect is not gone into.

4.Though Mr.R.Krishna Moorthy, learned Counsel for the insurance company would submit that the monthly income determined by the tribunal at Rs.13,300/- is on the higher side, a perusal of the records would show that the deceased was a partner in Enrich Events (Advertisement Agency) and Radiant Print Solutions, Chennai. For having business as Proprietorship in the name of Spectrum Events & Entertainment, Chennai, the claimants marked Ex.P.27 issued by the Department of Industries and Commerce, Government of Tamil Nadu. The deceased was a graduate of Diploma in Technician Engineering (Mechanical) as proved by Ex.P.19 and had qualification in computera as proved by Ex.P.20. Ex.P.24 viz., Axis Bank Account Statement for Enrich Events, Ex.P.26 viz., HDFC Bank Account Statement for Radiant Print Solutions and Ex.P.29 viz., ICICI Bank Account statement for Spectrum Events and Entertainment would prove that various business transactions have been done by the deceased. The income earned from the transactions exceeds Rs.2,00,000/- per year. Therefore, Rs.13,300/- determined by the tribunal per month is on the lower side and therefore, this Court redetermines the monthly income at Rs.17,500/- per month.

5.The age of the deceased is '31' years and as per the Judgment in "Pranay Sethi's Case" 40% has to be added towards future prospects. If 40% is added, the loss of income would be Rs.17,500/- + 40% = Rs.24,500/-. The size of the family is 4. Therefore, 1/4th has to be deducted towards personal expenses. If 1/4th is deducted, the loss of income would be Rs.24,500 - 1/4 = Rs.18,375/-. The appropriate multiplier as per the age of the deceased is '16' and therefore, the loss of income would be Rs.18,375/- x 12 x 16 = Rs.35,28,000/-.

6.Even though the Judgment in "Pranay Sethi's case" speaks about Rs.40,000/- towards loss of consortium, considering the young age of the lady who lost her husband at the age of 25, the award of Rs.1,00,000/- towards loss of consortium is confirmed. The loss of husband is very painful and that too at the age of 25 is very cruel and therefore, this Court confirms the said amount. Rs.2,00,000/- each awarded to the minors towards loss of love and affection is reduced to Rs.1,00,000/- each and Rs.1,00,000/- awarded to the mother of the deceased is reduced to Rs.50,000/-. Rs.15,000/- awarded towards transportation and Rs.5,000/- awarded towards damages to clothes are confirmed. Rs.50,000/- awarded towards funeral expenses is reduced to Rs.15,000/- and Rs.1,00,000/- awarded towards loss of estate is reduced to Rs.15,000/- and Rs.1,00,000/- awarded towards loss of expectation of life is deleted. Therefore, the sum of Rs.37,50,000/- awarded by the tribunal is modified as follows:

SI.No	Head	Amount (Rs.)
1.	Loss of income	35,28,000/-
2.	Loss of Love and affection	2,50,000/-
3.	Funeral Expenses	15,000/-
4.	Loss of consortium	1,00,000/-
5.	Loss of estate	15,000/-
6.	Transportation	15,000/-
7.	Damages to Clothes	5,000/-
	Total	39,28,000/-

7.Hence, the total compensation payable in this case is Rs.39,28,000/-. The interest awarded by the Tribunal at the rate of 7.5% per annum is confirmed.

8.The appellant/Insurance company is directed to deposit the entire award amount, as per the modified award passed by this Court, before the Tribunal along with interest and costs after deducting the amount, if any, already deposited within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the tribunal is directed to transfer the respective shares of the major claimants through RTGS as per the ratio fixed by the Tribunal within a period of one week. As far as the minors' share are concerned, the same shall be deposited in interest bearing fixed deposit in any one of the Nationalized Banks till they attain majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st appellant in C.M.A.No.34 of 2018 once in three months.

9. Accordingly, the appeal filed by the Insurance Company is dismissed and the appeal filed by the claimants is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

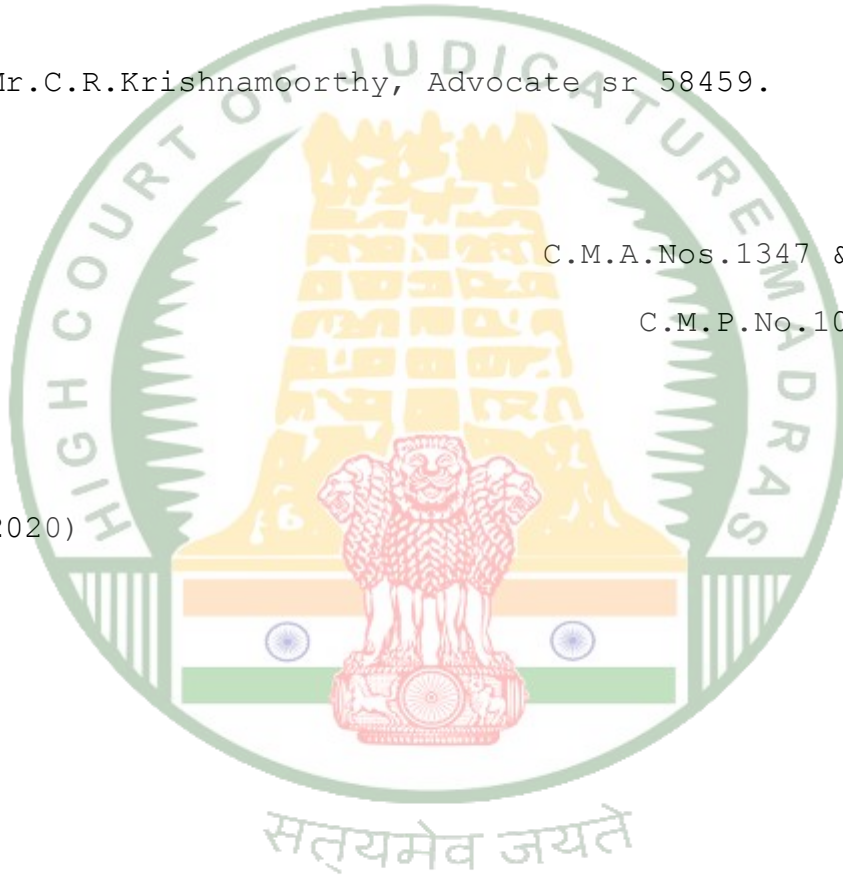
The Motor Accidents Claims Tribunal,
Special Sub Court No.2,
Small Causes Court,
Chennai.

Copy to
The Section officer
VR Section
High Court, Madras 104.

+1 CC to Mr.C.R.Krishnamoorthy, Advocate sr 58459.

C.M.A.Nos.1347 & 34 of 2018
and
C.M.P.No.10785 of 2018

CNR (CO)
SP (13/10/2020)



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