

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1558 of 2018
and C.M.P.No.12338 of 2018

United India Insurance Co Ltd
No.14, Whites Road,
Chennai - 600 014.

... Appellant/2nd Respondent

Vs.

Punniyakodi (Since deceased)

1.Bhuvaneswari

2.Priyadaarshini (Minor)

3.Sudarsha (Minor)

(Respondents 2 & 3 Minor rep. by her mother/)
1st respondent

4.M.Palani

...Respondents 1 to 5/
Petitioners

5.Chandra

6.K.Rajendran

...6th Respondent/1st Respondent
(R6 called absent and remained ~~exparte~~ before the
Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 02.01.2018 made in M.C.O.P.No.1775 of 2012 on the file of the Motor Accident Claims Tribunal, IV-Court of Small Causes, Chennai.

For Appellant : Mr.G.Udayasankar

For RR1 to 5 : Mr.K.Suryanarayanan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company, challenging the award dated

02.01.2018 made in M.C.O.P.No.1775 of 2012 on the file of the Motor Accident Claims Tribunal, IV-Court of Small Causes, Chennai.

2.The appellant/Insurance Company is 2nd respondent in M.C.O.P.No.1775 of 2012 on the file of the Motor Accident Claims Tribunal, IV-Court of Small Causes, Chennai. Initially one Punniyakodi filed the said claim petition, claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 25.03.2012. Pending claim petition, the said Punniyakodi died on 15.07.2012 and his legal heirs were impleaded as respondents 1 to 5 and they claimed a sum of Rs.30,00,000/- as compensation for his death. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the lorry belonging to the 6th respondent and directed the appellant/Insurance Company to pay a sum of Rs.27,46,700/- as compensation to the respondents 1 to 5. Challenging the said award dated 02.01.2018 made in M.C.O.P.No.1775 of 2012, granting compensation to the respondents 1 to 5, the appellant/Insurance Company has come out with the present appeal.

3.Though the learned counsel appearing for the appellant/Insurance Company has raised various grounds in the grounds of appeal with regard to quantum of compensation, when the matter is taken up for hearing, he has restricted his arguments only with regard to the amount awarded by the Tribunal towards loss of dependency. The monthly income of the deceased fixed by the Tribunal at Rs.15,000/- is excessive and prayed for reducing the compensation awarded by the Tribunal towards loss of dependency.

4.Per contra, the learned counsel appearing for the respondents 1 to 5 contended that the deceased was working as a driver and was earning a sum of Rs.15,000/- per month. The Tribunal considering that there is no contra evidence on the part of the appellant/Insurance Company, has fixed a sum of Rs.15,000/- per month as notional income of the deceased and awarded compensation, which is not excessive and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant/Insurance Company as well as the learned counsel appearing for the respondents 1 to 5 and perused all the materials on record.

6.From the materials available on record, it is seen that the respondents 1 to 5 have contended that the deceased was a

driver and was earning a sum of Rs.15,000/- per month. They have failed to substantiate the said contention by producing any acceptable evidence. The notional income fixed by the Tribunal at Rs.15,000/- per month is excessive. This Court fixes a sum of Rs.14,000/- per month as notional income of the deceased. The deceased was aged 41 years. The Tribunal applied multiplier '14', granted 25% enhancement towards future prospects and deducted 1/4th towards personal expenses. The amount awarded by the Tribunal towards loss of dependency is modified to Rs.22,05,000/- [Rs.14,000/- + 3500 (Rs.14,000/- x 25%) x 12 x 14 x 3/4]. The amounts awarded by the Tribunal under other heads are just and reasonable and the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	23,62,500	22,05,000	Reduced
2.	Loss of consortium	40,000	40,000	Confirmed
3.	Loss of love & affection	3,00,000	3,00,000	Confirmed
4.	Funeral expenses	15,000	15,000	Confirmed
5.	Medical bills	29,202	29,202	Confirmed
	Total Rounded off to	Rs.27,46,702/- Rs.27,46,700	Rs.25,89,202/- Rs.25,89,200/-	Reduced by Rs.1,57,500/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.27,46,700/- is hereby reduced to Rs.25,89,200/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 1st respondent being wife of the deceased is entitled to a sum of Rs.7,15,200/-, the respondents 2 and 3 being daughter and son of the deceased are entitled to a sum of Rs.8,68,500/- each and the respondents 4 and 5 being parents of the deceased are entitled to a sum of Rs.68,500/- each as compensation. The appellant/Insurance Company is directed to deposit the modified award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy

of this judgment. On such deposit, the respondents 1, 4 and 5 are permitted to withdraw their respective share of the award amount along with proportionate interest and costs, after adjusting the amount if any, already withdrawn. The share of the minors/respondents 2 & 3 are directed to be deposited in any one of the Nationalised Banks till the minors attain majority. The 1st respondent being the mother of the respondent 2 & 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minors. The appellant/Insurance Company is permitted to withdraw the excess amount, if any lying in the deposit to the credit of M.C.O.P.No.1775 of 2012, if the entire award amount has already been deposited by them. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

kj

To
1.The IV Judge,
Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

+1 cc to Mr.G.Udayasankar Advocate sr42237
+1 cc to Mr.K.Suryanarayanan Advocate sr42236

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C.M.A.No.1558 of 2018

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