

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2019

Coram

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

C.M.A.No.171 of 2018
and
C.M.P.No.2089 of 2018

M/s.Reliance General Insurance
Co. Ltd.,
Rais Tower, Plot 2054, II Avenue,
Anna Nagar,
Near Senthil Nursing Home,
Chennai - 40.

.. Appellant/2nd Respondent

vs.

1.Mahadevi
2.Bharathi
3.Velayudham
4.S.Ramesh

..Respondents 1 to 3/Petitioner
.. 4th Respondents/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 04.07.2017 made in M.C.O.P.No.2002 of 2013 on the file of the Motor Accidents Claims Tribunal (II Judge, Court of Small Causes), Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.A.S.Bilal for R1 & R2, R3
No appearance for R4

JUDGMENT

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

Aggrieved over the award passed by the Tribunal in M.C.O.P.No.2002 of 2013 for a sum of Rs.38,79,000/- with interest at 9% per annum, this appeal has been preferred by the insurance company.

2. For the death of one Vasanthkumar, respondents 1 and 3 herein, being the parents of the deceased along with their daughter/third respondent, filed the claim petition before the Tribunal, claiming a sum of Rs.1 crore as compensation. Upon consideration of the oral and documentary evidence, the Tribunal held that the second respondent is not entitled to any compensation and awarded a compensation of Rs.38,79,000/- along with interest at 9% per annum by equally apportioning the same to respondents 1 and 3. The Tribunal has also directed the appellant insurance company to pay the compensation and recover it from the fourth respondent.

3. Heard the learned counsel appearing for the appellant and the learned counsel appearing for respondents 1 and 2.

4. Learned counsel appearing for the appellant would submit that though liability is not questioned, the quantum requires to be interfered with on two counts. Firstly, 50% enhancement has been made for the future prospects, which is contrary to the judgment of the Constitution Bench of the Apex Court in National Insurance Company Limited Vs. Pranay Sethi and Others ((2017) 16 SCC 680). Secondly, the interest at 9% per annum has been claimed as against 7.5% per annum.

5. Learned counsel appearing for respondents 1 and 2 would submit that even as per the aforesaid judgment, what is permissible towards future prospects is only 50%. The claimants have filed Form 16 to show the income of the deceased, which is not disputed. The interest being the discretion of the Court and the same being prevailing one, no interference is required. He further submits that the third respondent/father of the deceased died pending the appeal.

6. The Apex Court was pleased to hold in the aforesaid judgment that in a case of permanent employee and involving fixed salary, 50% will have to be added for the future income. We find that no distinction has been made between the Government employee and private employee. In such view of the matter, we do not find any error in the award passed by the Tribunal. However, we are inclined to interfere with the award with respect to interest component. What is being awarded is only 7.5% per annum, which is the prevailing interest that is being adopted. We do not find any special reason for awarding 9% interest. Accordingly, while confirming the award, the interest alone is reduced to 7.5% per annum. Considering the fact that the third respondent herein/father of the deceased is no more, the compensation apportioned to him shall also be paid to the first respondent/first claimant.

7.The appellant is directed to deposit the compensation amount awarded by the Tribunal along with accrued interest, less the amount already deposited, to the credit of M.C.O.P.No.2002 of 2013 on the file of the Motor Accidents Claims Tribunal (II Judge, Court of Small Causes), Chennai, within a period of six weeks from the date of receipt of a copy of this judgment.

8.On such deposit, the first claimant/mother of the deceased is permitted to withdraw the entire compensation amount payable to her. Apart from that, she is also entitled to withdraw the share apportioned to the father of the deceased, who is no more.

9.With the above modification, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

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

2.The Record Keeper,
V.R. Section, High Court, Madras.

+1cc to Mr.A.S.Bilal, Advocate SR.No.9329

+1cc to Mr.S.Arunkumar, Advocate SR.No.9901

C.M.A.No.171 of 2018

CNR(CO)
GMY(24/04/2019)