

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.3148 of 2019

and

C.M.P.No.17766 of 2019

M/s.Reliance General Insurance Co. Ltd.,
Reliance House, 6th Floor,
No.6, Haddows Road, Nungambakkam,
Chennai - 6. ... Appellant/2nd Respondent

Vs.

1.G.Sumathi

2.S.Thangarasu ... Respondents/Petitioner and
1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 13.07.2017 made in M.C.O.P.No.8 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Court, Arakkonam.

For Appellant : Mr.S.Arun Kumar

For R1 : Mr.K.Varadha Kamaraj

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company, challenging the award dated 13.07.2017 made in M.C.O.P.No.8 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Court, Arakkonam.

2.The appellant/Insurance Company is 2nd respondent in M.C.O.P.No.8 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Court, Arakkonam. The 1st respondent filed the said claim petition, claiming a sum of Rs.25,00,000/- as compensation for the death of one Govindharaj, who died in the accident that took place on 08.03.2014. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the

Apache Motorcycle belonging to the 2nd respondent and directed the appellant/Insurance Company to pay a sum of Rs.14,35,400/- as compensation to the 1st respondent. Against the said award dated 13.07.2017 made in M.C.O.P.No.8 of 2015, granting compensation to the 1st respondent, the appellant/Insurance Company has come out with the present appeal.

3.The learned counsel appearing for the appellant/Insurance Company contended that the Tribunal has not observed the fact that neither the deceased nor the rider of the 2nd respondent vehicle had valid driving license enabling to maintain a claim against the appellant. In the absence of age, avocation and income the Tribunal has taken the age of the deceased as 45 years and the income at Rs.9,000/- per month on surmises. The sum awarded towards future prospects at 30% and funeral expenses at Rs.25,000/- and Rs.1,00,000/- towards loss of consortium are contrary to the judgment reported in 2017(2) TNMAC 609.

4.Per contra, the learned counsel appearing for the 1st respondent/claimant contended that the deceased was doing self business and was earning a sum of Rs.30,000/- per month. It is further argued that the Tribunal has rightly applied the multiplier '14' and granted compensation towards loss of dependency. It is further contended that the Tribunal has granted meagre sum towards loss of consortium and funeral expenses. The deceased was aged 45 years at the time of the accident and the Tribunal has not granted any future prospects and not granted any amount towards loss of estate and prayed for enhancement of compensation.

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

6.From the materials available on record, it is seen that the Tribunal by considering the contentions of the 1st respondent that the deceased was doing self business and was earning a sum of Rs.30,000/- per month, has taken monthly income of the deceased at Rs.9,000/-, by considering the age of the deceased and nature of avocation as self employment and considering the period of accident is of the year 2014, has taken the monthly at Rs.9,000/- which is very much reasonable. While determining the future prospects the Tribunal has taken 30% which is not proper, since he was 45 years and he is entitled to 25% towards future prospects. It is also seen that the Tribunal has also taken the proper multiplier to the age of the deceased at 45 years by applying '14' and by deducting 1/3rd towards personal expenses is also proper. In view of the above, the sum awarded by the Tribunal towards loss of dependency is modified to

Rs.12,60,000/- [(Rs.9,000/- + 2,250 (Rs.9,000/- of 25%) x 12 x 14 x 2/3)]. The sum awarded by the Tribunal towards loss of consortium and funeral expenses are highly excessive and hence reduced to Rs.40,000/- and Rs.15,000/- under those heads respectively. The Tribunal has not awarded any sum towards loss of estate and this Court awards a sum of Rs.15,000/- towards loss of estate. 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)
1.	Loss of dependency	Rs.13,10,400/-	Rs.12,60,000/-
2.	Loss of consortium	Rs.1,00,000/-	Rs.40,000/-
4.	Funeral expenses	Rs.25,000/-	Rs.15,000/-
5.	Loss of estate	-	Rs.15,000/-
	Total	Rs.14,35,400/-	Rs.13,30,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.14,35,400/- is reduced to Rs.13,30,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No costs. Consequently, connected Miscellaneous Petition is closed.

8. The appellant/Insurance Company is directed to deposit the modified award amount 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 order. On such deposit, the 1st respondent/claimant is permitted to withdraw the award amount with accrued interest and costs, after adjusting the amount if any, already withdrawn. The appellant/Insurance Company is permitted to withdraw the excess amount, if any lying in the deposit to the credit of MCOP.No.8 of 2015, if the entire amount has already been deposited by them.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

mtl

To

1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Arakkonam.

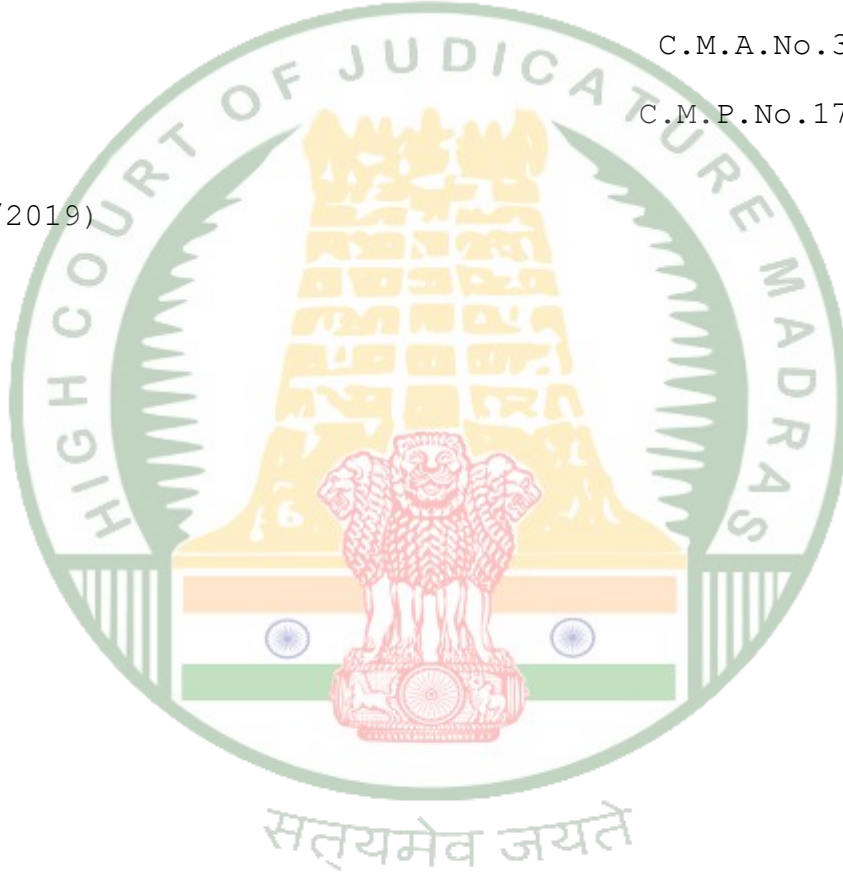
2.The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.S.Arun Kumar, Advocate SR.No.73363

+1cc to Mr.K.Varadakamaraj, Advocate SR.No.73314

C.M.A.No.3148 of 2019
and
C.M.P.No.17766 of 2019

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GMY(03/12/2019)



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