

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.07.2019
CORAM :
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
C.M.A.No.2983 of 2019
and
C.M.P.No.16008 of 2019

The United India Insurance Co. Ltd.,
3rd Party Claims Cell (Hub), Regional Office,
No.134, Greams Road, Chennai 6.

.... Appellant/2nd Respondent

Vs

1.J.Sumathy

2.J.Keerthiga

3.K.Dakshina Murthy

All are residing at
No.47, Kalaimani Street,
Karthikeyan Nagar, Maduravoyil,
Chennai - 95.

.... 1 to 3 Respondents/Petitioners

4.Archeyan Industries Pvt. Ltd.,
Madhavaram Redhills Road,
Madhavaram, Thiruvallur District.

.... 4th Respondent/1st Respondent

PRAYER : Civil Miscellaneous Appeal filed against the Order and
decreetal order dated 30.01.2019 in M.C.O.P.No.6987 of 2014
passed by the learned III Judge, Court of Small Causes, (MACT)
at Chennai.

For Appellant :Mr.P.Sankaranarayanan

For Respondents :Mr.K.Premkumar

J U D G M E N T

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

The appeal has been preferred by the Insurance Company
against the compensation of Rs.34,05,000/-, awarded for the
death of one S.Jeyaraj, aged 50 years old, owner cum driver of
the tanker lorry, allegedly earning about Rs.2,50,000/- per

month, in the accident occurred on 04.11.2014, when he was about to get into the cabin of parked lorry to go to Chennai, hit down by the tanker lorry insured with the appellant/insurance company which was driven rash and negligently.

2. Heard Mr.P.Sankaranarayanan, learned counsel appearing on behalf of the Insurance Company and Mr.K.Premkumar, learned counsel appearing on behalf of the claimants.

3. The only question to be decided is with regard to quantum as Mr.Sankaranarayanan, learned counsel appearing for the Insurance Company very strenuously argued that without any proof, the Tribunal has taken the monthly income at Rs.25,000/- and is on the higher side. He further submitted that for a lorry driver maximum sum of Rs.15,000/- alone could be fixed. Since the lorry was possessed by the family, even after the death of the owner, the income is always available to the family. However, the learned counsel appearing for the petitioner submitted that the family members are only managing the lorry in the absence of the deceased.

4. The contention raised by the learned counsel appearing on behalf of the Insurance Company that the lorry is always in their possession and the income also could be derived from the said vehicle is an acceptable one. Therefore, this Court is constrained to fix the monthly income reasonably at Rs.15,000/- as the deceased was the driver of the lorry at the time of accident.

5. Since the age of the deceased is 50 years, as per Ex.P.2/Post mortem certificate, 25% has to be added towards future prospects, based on the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC). After adding 25%, the monthly income would be at Rs.18,750/- (Rs.15,000/- + 25% of Rs.15,000/-)

6. Since the size of the family is 3, $1/3^{\text{rd}}$ has been rightly deducted by the Tribunal towards personal expenses of the deceased. After deducting $1/3^{\text{rd}}$, the monthly income would be at Rs.12,500/- [Rs.18,750/- (-) $1/3^{\text{rd}}$ of Rs.18,750/-].

7. As per the age of the deceased, the appropriate multiplier is "13". After applying appropriate multiplier, the loss of contribution would be at Rs.19,50,000/- (Rs.12,500/- x 12 x 13).

8. Loss of consortium:

The Tribunal has awarded a sum of Rs.40,000/- under this head. The same is confirmed.

9.Loss of love and affection:

The Tribunal has awarded a sum of Rs.1,00,000/- under this head. The same is enhanced to Rs.1,50,000/-.

10.Funeral expenses:

The Tribunal has awarded a sum of Rs.15,000/- under this head. The same is confirmed.

11.Transportation & Loss of estate:

No amount was awarded by the Tribunal under this head. Hence, this Court awards a sum of Rs.30,000/- under this head.

Head	Amount (Rs.)
Loss of contribution	1950000
Loss of consortium	40000
Loss of love and affection	150000
Funeral expenses	15000
Transportation charges and Loss of estate	30000
Total	2185000

12.Hence, the total compensation payable in this case is Rs.21,85,000/- along with interest at the rate of 7.5% per annum. The apportionment made by the Tribunal is also confirmed.

13.The appellant/Insurance company is directed to deposit the entire award amount along with interest and costs as per the award passed by this Court, within a period of four weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. On such deposit being made, the Tribunal is directed to transfer the respective share of the claimants along with interest and costs to the personal bank accounts of the claimants through RTGS within a period of one week thereon.

14.Accordingly, this appeal is partly allowed, reducing the compensation amount from Rs.34,05,000/- to Rs.21,85,000/- with interest. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

1.The learned III Judge,
Court of Small Causes,
Chennai 104.

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

+lcc to Mr.P.Sankaranarayanan, Advocate sr.65153
+lcc to Mr.K.Prem Kumar, Advocate sr.66063(09/08/2019)

C.M.A.No.2983 of 2019

In (co)
nr 01/08/2019



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