



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2019

CORAM :

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

C.M.A.No.2808 of 2019
and
C.M.P.No.14486 of 2019

The New India Assurance Company Limited,
Third Party Cell, No.45, Moore Street,
Chennai 600 001.
Appellant/2nd Respondent

...

Vs

1.Vijaya Nirmala
2.B.Latshiya
3.Minor Devikha
(Represented by her mother and
Guardian Vijaya Nirmala)
4.P.Angappan

...Respondents1 to 3/ Petitioner
4th Respondent/ 1st Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and Decree dated 01.04.2019 made in M.C.O.P.No.164 of 2016 on the file of the Motor Accident Claims Tribunal, Poonamallee (II Additional District Judge, Poonamallee).

For Appellant : Mr.R.Sivakumar

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 award of Rs.52,47,000/- for the death of one Mr.G.Balasubramaniam aged about 53 years, working as Sub Inspector of Police in Security Branch CID, Government of Tamil Nadu allegedly earning about Rs.53,000/- per month, in the accident occurred on 23.02.2016, when the deceased was riding his motorcycle towards South to North direction at Vandalur, Nemilichery 400 Feet Ring Road and was hit down by a lorry insured with the appellant/insurance Company driven by its driver rash and negligently.



WEB COPY

2. Heard Mr. R. Sivakumar, learned Counsel appearing for the appellant who would question only the quantum of compensation apart from raising a ground that the deceased was not wearing helmet at the time of accident. Though it is argued that the deceased was not wearing helmet and pleaded in the counter statement, there is no evidence on the side of the appellant to prove that the deceased was not wearing helmet and therefore, the said contention is not sustainable.

3. Admittedly, the deceased was working as Sub-Inspector of Police and it is proved by PW1 evidence and Ex.P.13 pay slips would prove that he was earning about Rs.52,186/-. After deducting Rs.1,030/- towards professional tax, a sum of Rs.51,156/- was rightly taken as monthly income by the tribunal. Therefore, the said determination is based on evidence.

4. The deceased was aged about 53 years as proved by Ex.P.13, pay slips and therefore, 15% was added towards future prospects as per the Judgment of "Pranay sethi's case". If 15% is added towards future prospects, the monthly income would be $\text{Rs.51,156} + 15\% = \text{Rs.58,829/-}$.

5. The size of the family is 3 and therefore, $\frac{1}{3}$ was deducted towards personal expenses and after deduction, the loss of income would be $\text{Rs.58,829} - \frac{1}{3} = \text{Rs.39,219/-}$.

6. The right multiplier '11' was applied as per the age of the deceased, i.e., 53 years and the loss of income determined by the tribunal is as follows; $\text{Rs.51,156/-} + 15\% - \frac{1}{3} \times 12 \times 11 = \text{Rs.51,76,908/-}$.

7. Further, Rs.40,000/- awarded toward loss of consortium and Rs.15,000/- each awarded towards Loss of Estate and funeral expenses are all confirmed. Even though no amount was awarded towards loss of love and affection and transportation, considering the award of Rs.52,46,908/- which has been rounded off to Rs.52,47,000/-, the same is confirmed. 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 before the Tribunal along with interest and costs after deducting the amount, if any, already deposited within a period of four 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 minor's share is concerned, the same shall be deposited in interest



bearing fixed deposit in any one of the Nationalized Banks till he attains majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st respondent once in three months.

WEB COPY

9. Accordingly, the appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ay

To

The Motor Accidents Claims Tribunal,
II Additional District Judge,
Poonamallee.

Copy to

The Section Officer,
VR Section,
High Court, Chennai.

+lcc to Mr.R.Sivakumar , Advocate SR.No. 58906

C.M.A.No.2808 of 2019
and

C.M.P.No.14486 of 2019

A.SK(13/11/2019)