

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A.No.4346 of 2019
and
C.M.P.No.24783 of 2019

M/s.Reliance General Insurance Company Limited,
No.6, 4th Floor, Haddows Road,
Chennai - 600 006.

... Appellant/2nd respondent

Vs

1.Prema

2.Raghul (Minor)

3.Shivani (Minor)
(minors are represented by mother
and next friend first respondent)

4.Vasanthi

5.S.Krishnan

... Respondents

Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 24.08.2018 passed in M.C.O.P.No.3407 of 2016 on the file of Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.N.Vijayaraghavan

For Respondents: Mr.K.Varadha Kamaraj

JUDGMENT

[Judgment was delivered by R.SUBBIAH, J]

By consent, the appeal is taken up for final disposal.

2. This appeal has been filed by appellant Insurance Company challenging the award dated 24.08.2018 passed in
<https://hcservices.ecourts.gov.in/hcservices/>

M.C.O.P.No.3407 of 2016 on the file of Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

3. The short facts of the case are as follows:

Respondents are legal heirs of the deceased Vadivel. On 14.04.2016 at about 15.50 hours, while the deceased was riding his motorcycle bearing Registration No.TN-02-AT-4176 from South to North, a Mahindra Van bearing Registration No.TN-05-W-7792 came in a rash and negligent manner and dashed against the motorcycle, as a result of which the deceased sustained grievous injuries and died, despite treatment. Respondents moved the Tribunal seeking compensation in a sum of Rs.40,00,000/-.

4. On appreciation of the evidence and materials on record, the Tribunal, under order dated 24.08.2018, awarded a sum of Rs.25,89,200/- as compensation. The break up details are as follows:

(a) Loss of dependency	:	Rs.24,19,200/-
[$((12000 \times 12 \times 16) + 40\%) - 1/4^{\text{th}}$]		
(b) Loss of love and affection	:	Rs. 1,00,000/-
(c) Loss of consortium	:	Rs. 40,000/-
(d) Loss of estate	:	Rs. 15,000/-
(e) Funeral expenses	:	Rs. 15,000/-

		Rs.25,89,200/-

The said sum was directed to be paid with interest at 7.5% p.a. from the date of petition till the date of deposit. Seeking modification of compensation, the present appeal has been filed.

5. Heard learned counsel for appellant and learned counsel for respondents.

6. Learned counsel for appellant insurance company submits that the present appeal has been filed challenging the quantum of compensation alone. Though it was the case of respondents that the deceased was working as a Carpenter at Shivani Carpenter Work and was earning a sum of Rs.45,000/- p.m., neither the employer of the deceased was examined nor any document was produced to establish the same. The Tribunal has also erred in fixing the monthly income at Rs.12,000/- in the absence of any proof. Submitting as above, learned counsel prays for modifying the award amount.

7. On the other hand, learned counsel for respondents/claimants submits that the Tribunal, taking into consideration all evidences and materials placed before it, has awarded a reasonable compensation. Submitting as above, learned counsel prays for dismissal of the appeal.

8. Keeping in mind the submissions made on either side,

this Court has carefully perused the entire materials available on record.

9. We find that the accident had occurred in the year 2016 and in the present day scenario, fixing of monthly income at Rs.12,000/- for a Carpenter, cannot be said to be on the higher side. Considering the fact that the deceased was aged 32 at the time of accident, the Tribunal has rightly applied the multiplier '16', added 40% towards future prospects and deducted 1/4th towards personal expenses and arrived at the compensation under the head 'loss of dependency' at Rs.24,19,200/-. We also find that the award passed under the other heads also is just and reasonable. We do not find any reason to interfere with the award passed by the Tribunal.

10. The appellant insurance company is hereby directed to deposit the award amount after deducting the amount, if any deposited, with interest within a period of four weeks from the date of receipt of this judgment. Deposit of sums payable to the minors and withdrawal of interest thereon once in six months towards meeting their needs shall be effected as directed by the Tribunal. Respondents 1 and 4/claimants shall be entitled to withdraw the sums payable to them on due application as apportioned by the Tribunal.

In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gm

To
The Motor Accident Claims Tribunal,
II Court of Small Causes,
Chennai.

+1cc to Mr.N.Vijayaraghavan , Advocate SR.No. 98178
+1cc to Mr.K.Varadha Kamaraj , Advocate SR.No. 97522

C.M.A.No.4346 of 2019

A.SK(20/08/2020)