IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2019

CORAM :

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

C.M.A.No.12 of 2017
and C.M.P.Nos.75 of 2017 and 2095 of 2018

Royal Sundaram Alliance Insurance Company Limited,
No.1, Subramanian Building, 2nd Floor,
Club House Road, Chennai 600 002. ... Appellant/Respondent 2

vs.

1.Malathi Gopinath

2.S.Gopinath

3.G.Saranya ...Respondents 1 to 3/ Claimants 1 to 3

4.Kumara Vadivel (Given up)

(R4 set exparte before the Tribunal) ..4th Respondent/ Respondent No.1

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 to set aside the decree and Judgment dated 19.01.2016 made in M.C.O.P.No.1698 of 2013 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.2) Chennai.

For appellant	:	Mr.S.Manohar
For R1	:	Mr.K.V.Muthu Visakan
R2 & R3	:	No Appearance
R4	:	Given up

J U D G M E N T

(Judgment of the Court was delivered by C.SARAVANAN,J.)

The appellant-Insurance company is aggrieved by the fair and decretal order dated 19.01.2016 passed by the Motor Accident Claims Tribunal, (Special Sub Court No.2) Chennai in M.C.O.P.No.1698 of 2013. (For brevity hereinafter referred to as the Tribunal and the impugned order respectively.)

2. By the impugned order dated 19.01.2016, the Tribunal has awarded a sum of Rs.45,75,000- to the respondents 1 to 3 who are the mother, father and sister of the deceased G.Sudarsanan, aged about 22 years at the time of the fatal accident and death.

3. On 10.10.2012, the deceased was travelling in the Car bearing Reg.No.TN 07 BR 9410 insured with the appellant/Insurance company as a passanger.

4. It appears from the records that the driver of the Car drove the same at a high speed and in a rash and negligent manner and therefore capsized the car. Due to the impact, the deceased G.Sudarsanan had sustained multiple injuries and died on the spot.

5. The Tribunal has awarded a sum of Rs.45,75,000/- as compensation with interest at the rate of 7.5% per annum, under the following heads:

	Heads and calculation	Amount awarded by this Court
1	i) i) Notional gross income of the deceased per month Rs.25,000 ii) gross income per annum (Rs.25,000x12) Rs.3,00,000 iii) 50% added towards future prospects (Rs.3,00,000 x ½) Rs.1,50,000 ---------------- Rs.4,50,000 iv) Less income tax at 10% (Rs.2,00,000 to Rs.5,00,000) (after standard deduction for Rs.2,00,000) Rs. 22,000 -------------- loss of annual income Rs.4,25,000 ------------- iv)after deducting towards 50% personal expenses of the deceased (Rs.4,25,000 x ½) Rs.2,12,500 ------------- v)loss of income applying multiplier of 18 (Rs.2,12,500 x 18) Rs.35,82,000	Rs.35,82,000

	Loss of love and affection to the respondents 1 to 3 (Rs.40,000 x 3) *	Rs. 1,20,000
3	Medical expenses	Rs. 1,00,000
4	Funeral Expenses	Rs. 15,000
5	Loss of Estate	Rs. 15,000
	Total	Rs.35,52,000

6. The loss of income was determined by considering the notional income of the deceased at Rs.25,000 p.m based on the income of similarly placed students who had selected in the campus recruitment.

7. The learned counsel for the appellant submits that the determination of the compensation based on the notional income was excess and therefore submitted that the order passed by the Tribunal was liable to be modified.

8. The learned counsel for the appellant has also stated that awarding of compensation at 50% towards future prospects was also justified.

9. We have considered the rival submissions and also perused the documents available on records.

10. As far as notional income of Rs.25,000/- p.m. is concerned, we do not find any reason to interfere with the same. Consequently, the loss of income for the purpose of computation of compensation at Rs.25,000/- p.m. is upheld.

11. Since the deceased was still a student and was yet to be employed, we are of the opinion that the future prospects should be restricted to 40% of the notional income instead of 50% adopted by the Tribunal. Therefore, the compensation is to be recomputed as follows:

S.No.	Heads and calculation	Amount awarded by this Court
1	i) i) Notional gross income of the deceased per month Rs.25,000 ii) 40% of above to be added as future prospects Rs. 10,000 (Rs.25,000x40/100) * ------------- Rs.35,000 -------------- iii) yearly income (Rs.35,000 x 12) Rs.4,20,000 (after standard deduction for Rs.2,00,000) Rs. 22,000 -------------- Yearly income after tax Rs.3,98,000 ------------- iv)50% deduction for personal expenses Rs.1,99,000 ------------- v)Add 18 Multiplier (Age 22 years) (1,99,000x 18) Rs.35,82,000	Rs.35,82,000
2	Loss of love and affection to the respondents 1 to 3 (Rs.40,000 x 3) *	Rs. 1,20,000

3	Medical expenses	Rs. 1,00,000
4	Funeral Expenses	Rs. 15,000
5	Loss of Estate	Rs. 15,000
	Total	Rs.35,52,000

* As per Sarla Varma and Prenay Sethi 's case.

12. The impugned order is thus modified and the compensation awarded by the Tribunal is reduced to Rs.35,52,000/ from Rs.45,75,000/ in the same proportion as ordered by the Tribunal with accrued interest thereon.

13. The appellant/Insurance Company is therefore directed to deposit a sum of Rs.35,52,000/- together with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this order after deducting the amount already deposited before the Tribunal if any. On such deposit, the respondents 1 to 3/claimants 1 to 3 are permitted to withdraw aforesaid amount in the same proportion as was ordered by the Tribunal with accrued interest thereon.

14. In view of the above, the civil miscellaneous appeal is partly allowed. No cost. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

kkd

To

The Special Sub Court No.3, Chennai.

The Motor Accident Claims Tribunal,

+1cc to Mr.S.Manohar, Advocate SR.No.37145

+1cc to Mr.K.V.Muthu Visakan, Advocate SR.No.36772

C.M.A.No.12 of 2017
and C.M.P.Nos.75 of 2017
and 2095 of 2018

TM(CO)
GMY(06/08/2019)