

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2019

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH  
AND  
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No. 84 of 2017

The Branch Manager,  
Bharti AXA General Insurance Co., Ltd.,  
A.M.I.Midtown, No.2, 25A-4, 3<sup>rd</sup> Floor,  
Above Reebok Showroom,  
D.B.Road, R.S.Puram,  
Coimbatore - 641 002. .... Appellant

Vs.

1.Lakshmi  
2.Minor Sonali  
3.Varatharajan  
4.Dhanam  
5.T.N.Sathishkumar  
6.P.Jayabal .... Respondents

PRAYER : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 29.03.2016 made in M.C.O.P.No.286 of 2013 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge), Tirupur.

For Appellant : Mr.K.Poomalai

For Respondents

: Mr.MA.P.Thangavel for R1 to R4  
Notice sent to R5

: No appearance for R6

JUDGMENT

(Delivered by M.M.SUNDRESH.,J)

The appellant is the insurer of the vehicle bearing Registration No.TV-39-AL-8007 which is a lorry. The case of the claimants is that the deceased was travelling on 20.03.2013 in a two-wheeler and the accident occurred due to rash and negligent driving of the Driver of the lorry. The claimants sought for a

sum of Rs.20,00,000/- as compensation and the Tribunal awarded Rs.23,62,000/- as compensation. Challenging the quantum, the present appeal is filed by the appellant.

2. The learned counsel appearing for the appellant submitted that the Tribunal without any basis fixed the income of the deceased at Rs.15,000/-. More than what has been sought for has been awarded. For the future prospects, higher percentage has been taken into consideration. Thus, the award passed by the Tribunal requires interference.

3. The learned counsel appearing for the respondents/claimants submitted that though for future prospects higher percentage has been added, the multiplier has been wrongly adopted. If both these factors are considered together, then there is no need for interfering with the award passed by the Tribunal. Thus, the appeal will have to be dismissed.

4. Before the Tribunal, the claimants examined two witnesses and marked Exs.P1 to P8. On behalf of the appellant Ex.R1, which is the driving licence of the deceased has been marked.

5. From the evidence adduced, we are of the view that the deceased was having heavy vehicle licence. Ex.P7 would clearly show that the deceased was also co-owner of the lorry which was sold subsequently. On a perusal of the materials, we are of the view that the Tribunal was right in fixing the monthly income of the deceased at Rs.15,000/-. We also find that the Tribunal has made due deductions.

6. As rightly submitted by the learned counsel appearing for the respondents/claimants, we are concerned with the fixation of just compensation. Though a higher percentage has been fixed towards the future prospects, lower multiplier has been adopted by the Tribunal. If the correct percentage is adopted with the appropriate multiplier then the claimants would be entitled to more amount than the one awarded by the Tribunal.

7. In such view of the matter, we do not find any error in the award passed by the Tribunal warranting interference and the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected C.M.P.No.690 of 2017 is closed.

8. It is stated that as per the order dated 19.01.2017 made in C.M.P.No.690 of 2017 in C.M.A.No.84 of 2017, 50% of the award amount has already been deposited by the appellant. Therefore, the appellant insurance company is directed to deposit the balance 50% of the award amount along with accrued interest to the credit of M.C.O.P.No.286 of 2013 on the file of the Motor

Accidents Claims Tribunal (II Additional District Judge),  
Tirupur, within a period of eight weeks from the date of receipt  
of a copy of this judgment.

9. On such deposit, claimants 1, 3 and 4 are permitted to  
withdraw their respective shares along with accrued interest.  
Insofar as the share of the minor second claimant is concerned,  
the same will have to be deposited in any one of the  
Nationalized Banks till she attains majority. The first  
claimant/mother is permitted to withdraw the interest accrued on  
the minor second claimant's deposit once in three months  
directly from the Bank.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm

To

1. The Presiding Officer,  
Motor Accidents Claims Tribunal,  
(II Additional District Judge),  
Tirupur.

2. The Record Keeper,  
V.R. Section,  
High Court, Madras.

+1cc to Mr.K.Poomalai, Advocate, S.R.No. 102584

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No. 102751

सत्यमेव जयते

C.M.A.No.84 of 2017

RR (CO)

GN (15/09/2020)

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