

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3686 of 2011

and

M.P.No.1 of 2011

(Through Video Conferencing)

M/s. United India Insurance Co. Ltd.
Rep. by its Divisional Manager,
T.K.M.Complex, Katpadi Road,
Vellore. Appellant/Respondent-II

Vs.

1.Kaleeswaran
2.Kalavathi
3.M.Dhanasekar Respondents/Respondent-II

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Decree and Judgment passed in M.C.O.P.No.39 of 2010 dated 21.04.2011 (Additional District Judge and Sessions Judge), F.T.C. at Vellore District and to dismiss the claim petition.

For Appellant : Mr.J.Chandran

For R1 : Mr.K.G.Senthil Kumar

J U D G M E N T

With the consent of the learned counsel for the appellant and the contesting 1st and 2nd respondents, this Civil Miscellaneous Appeal is taken up for final disposal.

2. The appellant Insurance company is aggrieved by the impugned Judgment and Decree dated 21.04.2011 passed by the Motor Accidents Claims Tribunal, (Additional District and Sessions Judge, Fast Track Court), Vellore, in M.C.O.P.No.39 of 2010.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.7,56,800/- as compensation together with interest at 7.5% per annum, from the date of the claim petition, till the date of deposit, payable by the appellant Insurance Company and the 3rd respondent severally or jointly, to the 1st and 2nd respondents/claimants for the death of

Periyakaruppan, who is the deceased son of these two persons.

4. Aggrieved by the same, the appellant Insurance Company has filed this Civil Miscellaneous Appeal.

5. The brief facts of the case are that the deceased Periyakaruppan met with an accident, on 11.05.2008, when he was travelling along with his friends in Tata Indica Car bearing registration No.TN-02-L-5869. It is stated that when they were coming between anaicut and ponnai road, the driver of the vehicle drove it in a rash and negligent manner and hit it against a tree, as a result of which, the deceased sustained grievous injuries on his head and died on the spot while others sustained severe injuries and were taken to Hospital for further treatment.

6. The parents of the deceased Periyakaruppan filed a claim petition as his dependents for compensation of Rs.10,00,000/-. After considering the evidence, the Tribunal has awarded the aforesaid compensation of 7,56,800/- as compensation, to the claimants who are the 1st and 2nd respondents herein.

7. The learned counsel for the appellant submitted that the Tribunal while awarding the aforesaid compensation, has adopted the wrong multiplier and has wrongly deducted only 1/3rd of the income towards personal expenses of the deceased even though the deceased was a bachelor aged about 26 years.

8. I have considered the arguments advanced by the learned counsel for the appellant and the 1st and 2nd respondents. I have also perused the evidence on record and the impugned Judgment and Decree.

9. The Tribunal has awarded the compensation of Rs.7,56,800/-. As per the decisions of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12 and in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 and in Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130 : 2018 OnLine SC 1546, the compensation awarded by the Tribunal has to be modified.

10. While considering the income of the deceased as Rs.4,100/-, the Tribunal has not added amounts towards the future prospectus of the deceased and has wrongly deducted 1/3rd of the aforesaid income towards personal expenses of the deceased instead of half of the income as per the above decisions of the Hon'ble Supreme Court since the deceased was a bachelor. Therefore, the future prospectus is added to the income of the deceased and 50% of income is deducted towards

the personal expenses of the deceased. Since the deceased was aged 26 years, 17 multiplier is to be applied instead of 18 multiplier. In view of the same, I am inclined to modify the compensation awarded by the Tribunal as Rs.7,56,800/-, as follows:-

Head and Calculation	Compensation re-quantified by this Court
Income of the deceased : Rs.4,200/-	
Add: Future prospectus at 40% * : Rs.1,680/-	

: Rs.5,880/-	
Less: Personal expenses (5880 x ½)	
: Rs.2,940/-	

: Rs.2,940/-	
Annual Income - 2,940 x 12 : Rs.35,280/-	Rs.5,99,760/-
Multiplier - 17 (35,280 x 17) : Rs.5,99,760/-	
Loss of Love and Affection (40,000 x 2) #	Rs. 80,000/-
Funeral Expenses	Rs. 15,000/-
Transport	Rs. 15,000/-
Total	Rs.7,09,760/-

The modified amount of compensation is rounded off to Rs.7,09,800/-.

* As per the decision of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680.

As per the decision of the Hon'ble Supreme Court in Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130.

11. Therefore, the compensation awarded by the Tribunal of Rs.7,56,800/- is reduced Rs.7,09,800/-. If the entire amount of compensation awarded by the Tribunal has been already deposited by the appellant Insurance Company, it is permitted to withdraw the excess amount of Rs.47,000/- (7,56,800 - 7,09,800) together with interest thereon, by filing suitable application before the Tribunal.

12. If the amount of compensation awarded by the Tribunal has not deposited by the appellant Insurance Company, it is directed to deposit the modified amount of compensation of Rs.7,09,800/- arrived by this Court in this Judgment together with interest at 7.5% per annum from the date of the claim petition till the date of such deposit, less the amount already deposited if any, within the period of six weeks from the date of receipt of a copy of this Judgment.

13. On such deposit, the 1st and 2nd respondents/claimants are permitted to withdraw the same together with interest and cost if any, equally as directed by the Tribunal, by filing suitable application before the Tribunal.

14. Accordingly, this Civil Miscellaneous Appeal is partly allowed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:-

The Additional District Judge
and Sessions Judge,
The Motor Accidents Claims
Tribunal,
(Fast Track Court, Vellore)
Vellore District.

Copy to:

The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.J.Chandran, Advocate SR.25483

+1cc to Mr.K.G.Senthilkumar, Advocate SR.25449

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VG II(CO)
CB(22/01/2021)