



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.97 of 2013

and

M.P.No.1 of 2013

United India Insurance Company Ltd.,
represented by Divisional Manager,
Divisional Office at Katpadi Road,
Vellore.

... Appellant/4th Respondent

vs.

1.Francis Karpagam

2.Sam Jayaseelan

... 1 and 2 Respondent/

Petitioner 1 and 2

3.Daisy

4.Minor Carolina Rachal Viola

represented by her mother Daisy

(R4 declared as major & guardianship discharged
vide order of Court dt.14.07.14 made in MP. Nos.1&2 of 2014)

5.Sekar

... 3rd, 4th 5th Respondents/
1st, 2nd, 3rd Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 02.07.2012 made in M.C.O.P.No.237 of 2007 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Vellore.

For Appellant	:	Mr.D.Bhaskaran
For Respondents	:	Batta with petition due reg. R1 to R3 Mr.V.Mahadevan for R4 R5 - Exparte in Tribunal

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the Insurance Company challenging the award dated 02.07.2012 passed by the Motor Accidents Claims Tribunal, (Principal District Judge), Vellore in MCOP.No.237 of 2007.



2. A person by name, Prabakaran Jacob died on 4.02.2004 as a result of an accident caused by a vehicle, owned by the fifth respondent and insured with the appellant / Insurance Company. The first and second respondents are the parents, the third respondent is the wife and the fourth respondent is the daughter of the deceased. The claimants are the legal heirs and dependants of the deceased. The first and second respondents preferred a claim before the Motor Accident Claims Tribunal (Principal District Judge), Vellore in M.C.O.P. No.237 of 2007 seeking compensation for the death of Prabakaran Joseph.

3. The Motor Accident Claims Tribunal, (Principal District Judge), Vellore under the impugned award directed the appellant / Insurance Company to pay the respondents 1 to 4 a compensation of Rs.14,78,000/- together with interests and costs as detailed hereunder :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of income	14,40,000
Love & affection	20,000
Loss of consortium	10,000
Transportation	5,000
Funeral expenses	3,000
Total	14,78,000

4. Heard D. Bhaskaran, learned counsel for the appellant / Insurance Company and Mr.P.Mahadevan, learned counsel for the fourth respondent. The fifth respondent remained ex-parte both before the Tribunal as well as before this Court. Since this Court is going to confirm the award of the Tribunal, notice to respondents 1 to 3/ claimants is dispensed with.

5. The appellant / Insurance Company has challenged the appeal questioning the quantum of compensation awarded by the Tribunal as according to them, the compensation awarded by the Tribunal is excessive.

6. In the claim petition, the claimants have pleaded that the deceased Prabakaran Jacob was aged 36 years and was a Proprietor of Pest Control & Remedies earning Rs.25,000/- p.m., at the time of the accident. However, the Tribunal has fixed the monthly income of the deceased at the time of the accident as Rs.12,000/-.

7. Before the Tribunal, the claimants have filed thirteen documents which were marked as Exs.P1 to P13 and three witnesses were examined on their side viz., Sam Jayaseelan, the father of the deceased as PW1, Palani, an eye



WEB COPY

witness to the accident as PW2, Krishnamurthy, a person who has having business relationship with the deceased as PW3. On the side of the appellant / Insurance company, neither any document was filed nor any witness examined before the Tribunal.

8. The claimants have filed Exs.P6, P7, P8, P9, P10 and P13 to substantiate their claim that the deceased was earning Rs.25,000/-p.m. at the time of the accident as pleaded in their claim petition. However, the Tribunal after giving due consideration to the aforesaid documents thought it fit to fix the monthly income of the deceased at Rs.12,000/-. The Tribunal has given reasons in the impugned award to fix the monthly income of the deceased at Rs.12,000/-. Further, the Tribunal has not awarded any compensation towards loss of future prospects, which the claimants are legally entitled to in accordance with the Constitution Bench judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Sethi & others reported in 2017 16 SCC 680.

9. Assuming the fixation of monthly income of the deceased at Rs.12,000/- is on the higher side, if due consideration was given to the fact that the Tribunal has failed to award any compensation towards loss of future prospects, which the claimants are legally entitled to, the compensation awarded by the Tribunal under the head loss of income cannot be considered to be excessive as alleged by the appellant / Insurance Company.

10. Insofar as the compensation awarded under various other heads viz., Love and affection, Loss of Consortium, Transportation and Funeral expenses are concerned, the same also cannot be considered to be excessive, as alleged by the appellant / Insurance Company, if the avocation, age and the year of the accident was given due consideration. Accordingly, this Court is in agreement with the overall assessment made by the Tribunal under the impugned award.

11. In the result, there is no merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of 237 of 2007 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Vellore, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimants / first to



fourth respondents, as per the same ratio of apportionment made by the Tribunal, through RTGS, within a period of two weeks thereafter.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vsi2

To

1.The Motor Accident Claims Tribunal,
(Principal District Judge), Vellore.

2.The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.A.Gouthaman, Advocate, S.R.No. 31359

C.M.A.No.97 of 2013

PP(CO)
GN(13/09/2021)