

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2020

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.NO.83 OF 2016

AND

C.M.P.NO.846 OF 2016

The Oriental Insurance Company Limited,
Siva Complex, 2nd Floor, No.22-C,
Saradha College Main Road,
Salem-636 016 ... Appellant/Respondent No.2

Vs.

P.Lakshmi	...	Respondent-1/Petitioner-1
P.Soundappan	...	Respondent-2/Petitioner-2
P.Ramalingam	...	Respondent-3/Petitioner-3
P.Yuvaraj	...	Respondent-4/Petitioner-4
O.Sathyapriya	...	Respondent-5/Petitioner-5
P.Nagalingam	...	Respondent-6/Respondent-1

Prayer:-

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 28.04.2015 passed in M.C.O.P.No.1032 of 2013 on the file of the learned Additional District Judge, Additional District Court-cum-Motor Accidents Claims Tribunal, Namakkal.

For Appellant : Mr.Elveera Ravindran

For Respondents-1to5: Mr.Ma.Pa.Thangavel

J U D G M E N T

The present Civil Miscellaneous Appeal is directed against the judgment and decree dated 28.04.2015 passed by the learned Additional District Judge, Additional District Court-cum-Motor Accidents Claims Tribunal, Namakkal in MCOP No.1032 of 2013.

2.The learned counsel appearing on behalf of the appellant made a submission that the present Civil Miscellaneous Appeal is filed mainly questioning the quantum of compensation awarded by the Tribunal. There is no dispute with reference to the factum

regarding the accident as well as the liability fixed by the Tribunal to pay compensation. Therefore, this Court is not inclined to consider the findings with reference to the facts regarding the accident as well as the liability.

3. As far as the quantum of compensation is concerned, the Tribunal awarded total compensation of Rs.15,49,459/-. The learned counsel for the appellant mainly contended that the compensation awarded by the Tribunal for love and affection is exorbitant and the son and daughters of the deceased were aged persons, got married and living separately. Therefore, granting Rs.4 lakhs towards compensation under the head of love and affection is exorbitant and not in consonance with the principles laid down by the Apex Court in the case of National Insurance Co. Ltd. vs. Pranay Sethi [(2017) 16 SCC 680]. Further, it is brought to the notice of this Court that the amount granted under the head of Consortium is also excessive.

4. The learned counsel appearing on behalf of the respondents/claimants stated that no compensation was granted towards Transport Charges as well as the Loss of Estate, which are also contemplated in Pranay Sethi case (cited supra).

5. In view of the facts and circumstances brought to the notice of this Court with reference to the quantum of compensation awarded, this Court is inclined to reschedule the quantum of compensation as detailed hereunder:-

	Rs.
Loss of Future Income (Rs.4,875/-x12x9)	5,26,500/-
Love and Affection	1,60,000/-
Funeral Expenses	25,000/-
Loss of Consortium	40,000/-
Medical Expenses	4,97,959/-
Transportation Charges	15,000/-
Loss of Estate	15,000/-

12,79,459/-
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Thus, the total compensation payable to the claimants comes to Rs.12,79,459/-.

6. The learned counsel for the appellant made a submission that the entire Award amount has already been deposited. Thus, the claimants are permitted to withdraw the awarded amount in the present Civil Miscellaneous Appeal along with accrued interest at the rate of 7.5% per annum, by filing an appropriate application before the Tribunal and the said compensation is to be apportioned as per the decree passed by the Tribunal. The the appellant is permitted to withdraw the balance amount, if any, from the deposit.

7. Accordingly, the judgment and decree dated 28.04.2015 passed by the learned Additional District Judge, Additional District Court-cum-Motor Accidents Claims Tribunal, Namakkal in MCOP No.1032 of 2013 is set aside. Consequently, C.M.A.No.83 of 2016 stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Additional District Judge,
Additional District Court-cum-
Motor Accidents Claims Tribunal,
Namakkal.

2. The Section Officer, सतयमेव जयते
VR Section, High Court, Madras-104.

+1cc to Mr.Elveera Ravindran, Advocate, S.R.No.22588

+1cc to Mr.Ma.Pa.Thangavel, Advocate, S.R.No.22307

CMA.No.83 of 2016

PP(CO)
CS/27/01/2021