

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.4377 of 2019
and
C.M.P.No.24910 of 2019

Bharti Axa General Insurance Company Limited,
2nd Floor, Metro Plaza,
No.162, Anna Salai,
Chennai-600 002.

.. Appellant/Respondent 2

Vs.

1.L.Tharun Pranav (Minor)
Minor rep. by his Grand father K.Lakshmanan

2. Yogambal
(amended as per order in
M.P.No.1299 of 2017 dated 03.08.2017)

3. G.Venkatesan

4. Mr.Senthil (since deceased)
(fourth respondent/1st respondent therein
remained ex-parte before the Tribunal, hence,
notice dispensed with)

.. Respondents/Petitioner 1 to 3/
Respondent 1

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, against the order and decree dated
03.09.2018 made in M.C.O.P.No.4568 of 2013 on the file of the
Motor Accidents Claims Tribunal (II Court of Small Causes),
Chennai.

For appellant : Mr.K.Poomalai

For respondents : Mr.K.Suryanarayanan for RR-1 to 3

JUDGMENT

(The Judgment of the Court was delivered by R.Subbiah, J)

The appeal is heard through video-conferencing today.

2. Questioning the quantum of compensation awarded by the Tribunal, in and by award, dated 03.09.2018 made in M.C.O.P.No.4568 of 2013 on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai, the present appeal has been filed by the Insurance Company.

3. The claimants are the minor son and father and mother of the deceased L.Renugadevi, respectively. The case of the respondents 1 to 3/claimants before the Tribunal is that on 11.05.2013 at about 5 hours, while the deceased Renugadevi along with her husband and others were travelling in a Scorpio Car bearing Registration No.TN-06-F-3000 on the Trichy-Chennai Road from South to North direction, the said Scorpio car met with an accident, in which, the said Renugadevi and her husband Loganathan sustained fatal injuries and died on the spot itself. The claimants have filed claim petition in M.C.O.P.No..4568 of 2013 for the death of the mother Renugadevi and another M.C.O.P. was filed for the death of the father Loganathan. In the claim petition seeking for compensation for the death of the mother, the claimants have claimed compensation for Rs.1 crore. The Tribunal awarded a sum of Rs.20,46,000/- as compensation, against which, the present appeal has been filed by the Insurance Company questioning the quantum of compensation awarded by the Tribunal.

4. Since the present appeal has been filed questioning only the quantum of compensation, we are not traversing into the other aspects of the award.

5. It is the case of the appellant/Insurance Company that according to the claimants, the deceased Renugadevi was working as an Accountant in M/s.Malar Agency, Ayanavaram, Chennai and earning a sum of Rs.22,000/- per month. In order to prove the income of the deceased, absolutely, no document was produced. The Tribunal, on its own accord, had fixed a sum of Rs.12,000/- as the notional income of the deceased Renugadevi. Thereafter, the Tribunal, by applying the multiplier 15, arrived at a sum of Rs.21,60,000/- ($\text{Rs.12,000} \times 12 \times 15$) as the total loss of income. After that, the Tribunal added 40% towards future prospects and arrived at a sum of Rs.30,24,000/- ($\text{Rs.21,60,000} \times 40\% = 8,64,000$; then $21,60,000 + 8,64,000 = 30,24,000$). Then, the Tribunal deducted $1/3$ towards personal expenses of the deceased and arrived at a sum of Rs.20,16,000/- ($30,24,000 - 1/3 = 10,08,000$; then $30,24,000 - 10,08,000 = 20,16,000$) as the total loss of dependency. Now, it is the submission of the learned counsel for the appellant/Insurance Company that in the absence of any documentary proof, the Tribunal ought not to have fixed a sum of Rs.12,000/- as the notional monthly income of the deceased. Therefore, the compensation awarded under the head "loss of income" needs modification.

6. Per contra, the learned counsel appearing for the respondents 1 to 3/claimants supported the amount awarded by the Tribunal in the claim petition.

7. Keeping in mind the submissions made on either side, we have carefully perused the entire materials available on record.

8. As we find that though the claimants have stated a sum of Rs.20,000/- as the monthly income of the deceased Renugadevi, the Tribunal had fixed only a sum of Rs.12,000/- as a notional monthly income of the deceased. Considering the cost of living prevailing at the time of accident, we are of the opinion that the sum of Rs.12,000/- fixed by the Tribunal cannot be said to be an excessive amount. That apart, considering the age of the deceased Renugadevi, who was 39 years at the time of accident, the Tribunal had correctly adopted the multiplier 15 and thereafter arrived at the loss of income as observed in the earlier paragraph of this judgment. The calculation made by the Tribunal is well within the principles laid down by the Supreme Court in the various decisions on the subject. Hence, absolutely, we do not find any infirmity in the impugned award of the Tribunal.

9. Accordingly, this appeal filed by the Insurance Company is dismissed. The entire compensation as calculated by the Tribunal, shall be deposited by the appellant/Insurance Company after deducting the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. As far as the share of the minor claimant, i.e. the share of the first respondent herein is concerned, the same shall be deposited in any nationalised Bank in any interest bearing Fixed Deposit Scheme until the minor attains majority and the interest thereon shall be withdrawn by the minor claimant's grandfather (as represented before this Court for the minor) once in three months. No costs. Consequently, C.M.P. is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Presiding Officer,
Motor Accidents Claims Tribunal,
(II Court of Small Causes), Chennai.

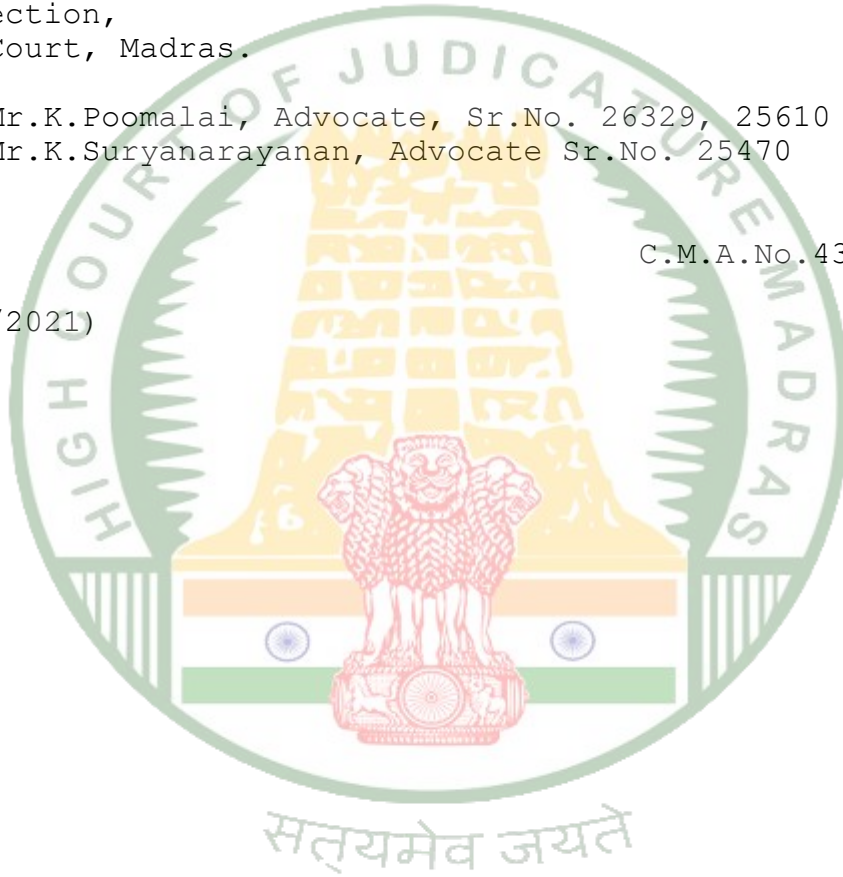
Copy To:

The Section Officer,
V.R.Section,
High Court, Madras.

+2ccs to Mr.K.Poomalai, Advocate, Sr.No. 26329, 25610
+1 cc to Mr.K.Suryanarayanan, Advocate Sr.No. 25470

C.M.A.No.4377 of 2019

SVI (CO)
RMP (21/04/2021)



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