



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.NO.1667 OF 2020

AND

C.M.P.NO.12277 OF 2020

The United India Insurance Co. Ltd.,
Motor III Party Claims Office,
Shilling Buildings, 4th Floor,
No.134, Greaves Road,
Chennai - 6.

... Appellant/2nd Respondent

.Vs.

1. Valliyammal
2. Anitha (minor)
3. Vishal (minor)
4. Gokul (minor)
5. Muniammal

... Respondents/Petitioners

Minors are Rep. by mother and
next friend Valliammal,
all are residing at
No.3/537, Anna Street,
Rajanagaram, Mottur Village,
Pallipattu Taluk,
Thiruvallur Dt. - 631 102.

6. Mr.Vinod Kondaiah,
No.54, Venkataray Pillai Street,
Sholinghur, Arakonam Taluk,
Vellore District - 631 102.

... Respondent/1st Respondent

PRAYER:-

Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act against the Order and decree dated 17.12.2019 made in MCOP No.5536 of 2017 on the file of the Motor Accidents Claims Tribunal, (In the II Court of Small Causes), Chennai.



WEB COPY

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.Richard Suresh Kumar
For Mr.K.Sivakumar
For R1 to R5

J U D G M E N T

Feeling aggrieved with the quantum of compensation awarded by the Tribunal, the insurance company is before this Court with this Civil Miscellaneous Appeal.

2. The case of the claimant before the tribunal in brief is as follows :-

The deceased by name Thulasi, aged about 36 years, and he was working as a Weaver. On 15.08.2017 at about 01.00 p.m. while he was riding his motorcycle bearing Regn. No.TN-20 BF-7146, in Thirutani to R.K. Pet High Road, Kumaarakuppam, a stage carriage bus bearing Regn. No.TN-23 L-9909 owned by the 1st respondent, which was insured with the 2nd respondent came in the opposite direction in a rash and negligent manner and dashed against the two wheeler of deceased, in which, he sustained fatal injuries and died on the spot. The claimants are wife, and children of deceased, have filed the claim petition, claiming the compensation of Rs.70,00,000/-, they have filed the claim petition before the Tribunal.

3. The 1st respondent/owner of the vehicle remained exparte. The appellant insurance company contested the claim petition on the ground that the accident was taken place due to the negligence of deceased and no liability would be fixed on the insurance company. They have also disputed the monthly income of deceased and further stated that the compensation claimed by the claimants are highly excessive and speculative.

4. Before the tribunal, the claimants have examined three witnesses and marked as many as 14 documents as Ex.P1 to P14. On the side of respondents, no witness was examined and no document was marked.

5. The Tribunal, after considering the materials available on record, has held that the accident has been taken place due to the rash and negligent driving of driver of the bus. So far as quantum of compensation is concerned, the Tribunal had fixed the monthly income of deceased at Rs.15,000/- per month, and adding 40% of monthly income towards future prospects, arrived the notional monthly income of deceased at Rs.2,52,000/-. After



deducting 1/4th towards personal expenses, the Tribunal has arrived the annual contribution of deceased as Rs.1,89,000/- and applying the multiplier of 15, the tribunal has arrived the loss of dependency as Rs.28,35,000/-. In respect of other conventional heads, the Tribunal has awarded a sum of Rs.40,000/- towards loss of consortium, a sum of Rs.1,75,000/- towards loss of love and affection, a sum of Rs.3,00,000/- towards parental consortium, a sum of Rs.25,000/- towards filial consortium and a sum of Rs.15,000/- towards funeral expenses. Thus, the Tribunal has awarded a sum of Rs.33,90,000/- as total compensation. Aggrieved over the compensation awarded by the Tribunal, the appellant insurance company is before this Court with this appeal.

6. Mr.D.Bhaskaran, learned counsel appearing for appellant insurance company would contend that the deceased was working as a Weaver and the accident was taken place in the year 2017. Without any evidence whatsoever, the Tribunal had fixed the monthly income as Rs.15,000/-, which is on higher side. So far as other conventional heads, the Tribunal after awarding a sum of Rs.40,000/- towards loss of consortium, awarded an amount of Rs.1,75,000/- towards loss of love and affection, another sum of Rs.3,00,000/- towards parental consortium, and a sum of Rs.25,000/- towards filial consortium, which are not permissible under law. The learned counsel has also relied upon the judgments of Hon'ble Supreme Court in the case of National Insurance Co.Ltd., /vs/ Pranay Sethi and others reported in 2017 (16) SCC 680, and in the case of United India Insurance Co. Ltd., vs. Satinder Kaur @ Satwinder Kaur and others in Civil Appeal No.2705 of 2020, dated 30.06.2020, and contended that the wife is entitled for a sum of Rs.40,000/- towards consortium, minor children are entitled for a sum of Rs.40,000/- each towards parental consortium, and mother is entitled for a sum of Rs.40,000/- towards filial consortium, however, altogether, the Tribunal has awarded a sum of Rs.3,65,000/- towards consortium and a sum of Rs.1,75,000/- towards loss of love and affection. According to the learned counsel, the compensation awarded by the Tribunal is highly excessive.

7. Mr.Richard Suresh Kumar, learned counsel appearing for respondents 1 to 5 would submit that, the deceased was a weaver, a skilled labour. The accident has taken place in the year 2017. The Tribunal, after considering all those circumstances, and also considering the number of dependants viz., widow, minor children and mother, has rightly fixed the monthly income of deceased as Rs.15,000/- and awarded compensation for loss of consortium and loss of love and affection. The compensation awarded by the Tribunal is just and fair compensation and there is no reason to interfere with it.



11. In view of the above, the award passed by the Tribunal is modified as follows :-

Sl. No.	Headings	Amount Awarded by the Tribunal Rs.	Amount awarded by this Court	Award confirmed or enhanced
1	Loss of dependency	28,35,000	28,35,000	confirmed
2	Loss of consortium	40,000	40,000	confirmed
3	Loss of love and affection	1,75,000	Nil	
4	Parental consortium	3,00,000	1,20,000	reduced
5	Filial consortium	25,000	40,000	enhanced
6	Funeral expenses	15,000	15,000	confirmed
7	Loss of estate		15,000	granted
	Total	33,90,000	30,65,000	reduced

Totally, the respondents 1 to 5 are entitled to get only a sum of Rs.30,65,000/- instead of Rs.33,90,000/- awarded by the Tribunal.

12. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.33,90,000/- is hereby reduced to Rs.30,65,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The appellant/insurance company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.5536 of 2017, on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai. On such deposit, the respondents 1 and 5/claimants are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn by making necessary applications before the Tribunal. The respondents 1 to 5/claimants are entitled to refund of Court fee, in any, on the reduced amount of compensation now determined by this Court. As far as the share of minor appellants viz., appellants 2 to 4 are concerned, the same shall be deposited in any nationalised bank in any interest bearing



fixed deposit scheme until the minors attain majority and the interest thereon shall be withdrawn by minor appellants' mother, once in three months. No costs. Consequently, the connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpp

To

1. The II Court of Small Causes,
The Motor Accidents Claims Tribunal,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.K.Sivakumar, Advocate, S.R.No.41608

C.M.A.NO.1667 OF 2020 AND
C.M.P.NO.12277 OF 2020

AJS (CO)
PBS/19/11/2021