

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.4731 of 2019

The Oriental Insurance Company Limited,
Motor Third Party Cell Office,
No.115, Oriental House,
Prakasam Salai, Broadway,
Chennai - 600 108. ... Appellant/2nd Respondent

Vs

1.M.Baby Rani
2.M.Kavitha ... Respondents 1 & 2 Petitioners
3.M.Nausheen Naaz ... 3rd Respondent/1st Respondent

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.7874 of 2014 dated 12.02.2019 on the file of Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : M/s.A.Salomi
for Mr.E.Ganapandithan for
R1,R2
Notice sent to R3

WEB COPY

JUDGMENT
(Delivered by M.M.SUNDRESH, J)

This appeal has been preferred by the appellant/Insurance Company with respect to quantum alone.

2. The deceased was aged about 19 years at the time of accident - 22.09.2014. The claimants 1 and 2 are the mother and the sister. The deceased was an Engineering Graduate studying II year.

3. Before the Tribunal, a sum of Rs.40,00,000/- has been claimed. The Tribunal, by fixing the income at Rs.18,000/- per month awarded Rs.30,26,000/- as compensation. Challenging the same, the present appeal has been filed.

4. The learned counsel appearing for the appellant/Insurance Company submitted that the Tribunal has committed an error in fixing the income at Rs.18,000/- per month. Admittedly, the deceased was only studying second year. In any case, he would not be earning till the completion of his studies. The engineering graduates are finding it difficult to get suitable employment. The Tribunal has awarded 50% towards future prospects instead of 40%. Thus, the award of the Tribunal requires interference.

5. The learned counsel appearing for respondents 1 and 2 submitted that, in total, a sum of Rs.30,26,000/- has been awarded as compensation. The claimants 1 and 2 are mother and the sister. Sister is aged about only 15 years. The father pre-deceased the deceased. The learned counsel has placed reliance upon the judgments of the Division Bench of this Court in (i) Balamanothari v. Sri Venkateswara College of Engineering reported in 2018 (2) TN MAC 81 (DB) and in (ii) S.Saraswathy v. A.Elumalai and others reported in 2016 (2) TN MAC 424 (DB) contends that higher income has been awarded and, therefore, the award of the Tribunal requires no interference.

6. There are two issues before us. One is with respect to the income of the deceased and the other is with respect to the future prospects.

7. Insofar as the future prospects is concerned, there is no difficulty in holding that the Tribunal is not correct in adding 50% as against 40%. Accordingly, we fix the future prospects at 40%.

8. Insofar as the monthly income is concerned, taking into consideration the fact that the deceased would not be earning for few years till the completion of his studies coupled with the condition of the claimants, we are inclined to fix the same at Rs.16,000/- per month. Accordingly, the loss of income arrived at is Rs.24,19,200/- ($16000 + 40\% \times 12 \times 18 \times \frac{1}{2}$). By adding the other conventional heads as awarded by the Tribunal, the total compensation arrived at is Rs.25,29,200/- which we are

rounding off it to Rs.25,30,000/- with interest at 7.5% per annum from the date of petition till the date of realization. The reduced compensation amount shall be apportioned amongst the claimants in the same ratio as ordered by the Tribunal.

9. The appellant/Insurance Company is directed to deposit the compensation awarded by this Court, less the amount, if any, already deposited to the credit of M.C.O.P.No.7874 of 2014 on the file of Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai within a period of six weeks from the date of receipt of a copy of the judgment.

10. We also direct the Tribunal to transfer the amount by way of RTGS to the bank accounts of the claimants within a period of three weeks from the date of deposit of the award amount. On such transfer, the claimants are entitled to withdraw the same.

11. The Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected C.M.P.No.26911 of 2019 is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

ssm

To

The Motor Accidents Claims Tribunal,
II Court of Small Causes,
Chennai.

Copy To
The Record Keeper
VR Section, High Court, Madras

+1cc to M/s.A.Salomi, Advocate SR.No.17429

+1cc to Mr.N.Vijayaraghavan, Advocate SR.No.16915

C.M.A.No.4731 of 2019

VG II(CO)
GMY(21/07/2020)