

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.212 of 2017

The Oriental Insurance Company Limited,
No.15, No.16, Prakasam Salai, 2nd Floor,
Broadway, Chennai -108. ... Appellant/2nd Respondent

vs.

1. S.Sulochana
2. S.Prince Priyakumar
3. Sarchana Arul Kumari
4. S.Prasanna Priya Kumari1 to 4th Respondents/Claimants
5. S.Prasanna Kumar 5th Respondent/1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.04.2016 made in M.C.O.P.No.5434/2013 on the file of the Motor Accident Claims Tribunal (II Court of Small Causes) Madras.

For Appellant : Mr.Elveera Ravindran
For R1 to R4 : Mr.A.A. Venkatesan
For R5 : Not ready in notice

JUDGMENT

This appeal is preferred by the appellant Insurance Company against the award of a sum of Rs.14,86,000/- towards compensation to the respondents 1 to 4/claimants, due to the death of one P.Stanley Francies, in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 02.07.2013, at about 22.30 hours, the deceased P.Stanley Francies was walking near Ganthi Nagar bus stop at C.T.H.Road, Pattabiram, Chennai. At that time, the motorcycle bearing Reg.No.TN 20 CV 6386, belonging to the fifth respondent and insured with the appellant Insurance Company, came in a rash and negligent manner and dashed against the deceased. As a result of the same, the deceased sustained grievous injuries and he later on, died in the hospital. The

wife, son and daughters of the deceased, being the surviving legal heirs, filed a claim petition before the Tribunal, seeking compensation of Rs.20,00,000/-. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.14,86,000/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant insurance company has submitted that the compensation awarded by the Tribunal under various heads are excessive and exorbitant and hence, the same needs significant reduction. The learned counsel has not disputed the finding of the Tribunal in respect of the manner in which the accident took place.

4.Per contra, the learned counsel for the respondents 1 to 4 / claimants, has submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.In respect of Loss of Pecuniary Benefits, the Tribunal has relied upon the exhibits, evidence of witnesses, judgment of the Hon'ble Supreme Court in the case of Sarla Verma and others v. Delhi Transport Corporation and another, reported in (2009) 4 MLJ (SC) 997 and also taken note of the II Schedule of the Motor Vehicles Act and all other aspects in a proper perspective and has awarded a sum of Rs.9,10,800/-. Hence, the amount awarded towards loss of pecuniary benefits, is confirmed. The amount awarded towards loss of estate at Rs.50,000/- also does not require any interference. But, this Court feels that the amount awarded towards loss of love and affection at Rs.4,00,000/- is on the higher side and it would be appropriate to reduce the same to Rs.1,60,000/- at the rate of Rs.40,000/- to each of the claimants. With regard to amounts awarded towards loss of consortium and funeral expenses, this Court feels that it would be appropriate to reduce the same to Rs.50,000/- and Rs.15,000/- respectively. The details of the modified compensation are as follows:

HEADS	AMOUNT
	(Rs.)
Loss of Pecuniary Benefits	9,10,800/-
Loss of Love and Affection	1,60,000/-
Consortium	50,000/-
Loss of Estate	50,000/-
Funeral Expenses	15,000/-

TOTAL..... 11,85,800/-

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Thus, the compensation awarded by the Tribunal stands reduced to Rs.11,85,800/- with interest at the rate of 7.5% per annum from the date of petition.

7.It is submitted by the learned counsel for the appellant insurance company that as directed by this Court vide order dated 09.02.2017, the appellant insurance company has deposited a sum of Rs.10,00,000/- before the Tribunal and the respondents 1 to 4 / claimants have also withdrawn 50% of the deposited amount. Hence, the appellant Insurance Company, on behalf of the 5th respondent, is directed to deposit the modified compensation amount as ordered above, after deducting the amount already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the amount lying in the deposit to the respective Savings Bank Accounts of the respondents 1 to 4/claimants, through RTGS, within one week thereafter, as per the ratio of apportionment made by the Claims Tribunal.

8.Accordingly, this Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-

Assistant Registrar(CS II)

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Sub Assistant Registrar

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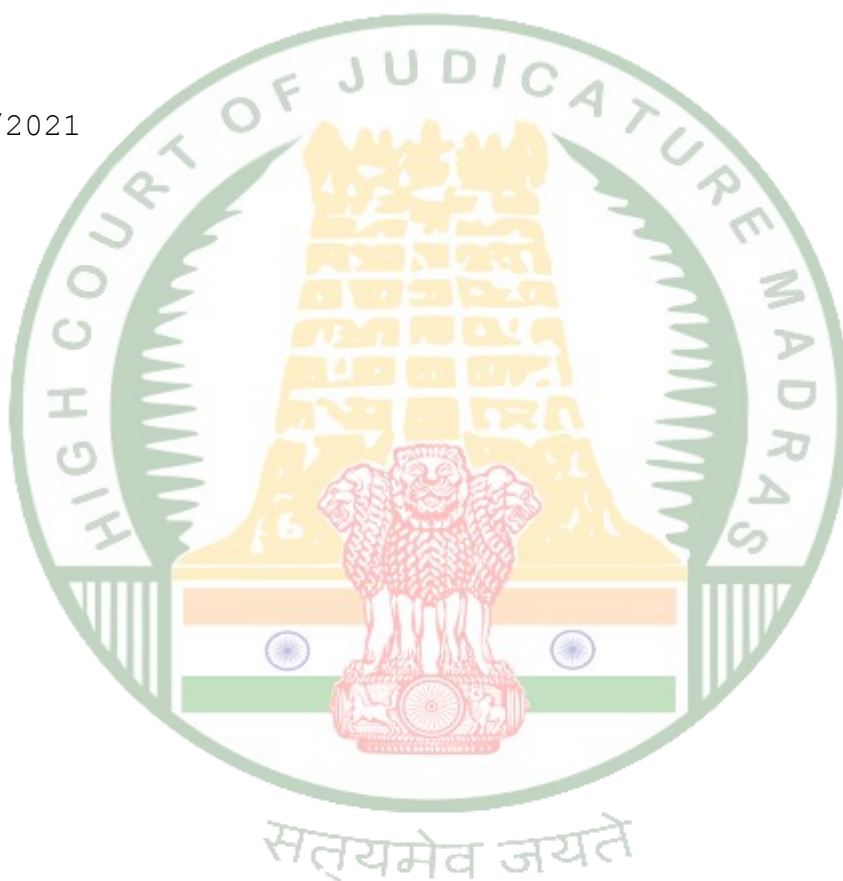
The Motor Accident Claims Tribunal,
The II Court of Small Causes,
Madras.

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The Section Officer,
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Chennai 104.

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