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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.4459 of 2019

and

C.M.P.No.25287 of 2019

(Through Video Conferencing)

The Oriental Insurance Co., Ltd.,
22C, Siva Complex,
Saradha College Main Road,
Fairlands, Salem 636 016.

... Appellant/2nd Respondent

vs.

1.Savithri

2.Deepa

3.Sellathal

4.Subramaniya Gounder ...Respondents 1 to 4/Petitioners

5.Chettinadu Builders Pvt.Ltd.,

Rani Seethai Hall, 603,

Anna Salai, Chennai 600 006.

...5th Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.09.2017 made in M.C.O.P.No.2914 of 2015 on the file of the Motor Accidents Claims Tribunal, (1 Additional District Judge) Salem.

For Appellant : M/s.S.Arunkumar

For R1 to R4 : Mr.A.Sathishkumar for
Mr.C.Thangaraju

For R5 : No Appearance

J U D G M E N T

The appellant Insurance company is aggrieved by the impugned Judgment and Decree dated 22.09.2017 passed by the Motor Accidents Claims Tribunal, (1 Additional District Judge) Salem in M.C.O.P.No.2914 of 2015.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.22,09,000/- as compensation together with interest at 7.5% per annum, from the date of the claim petition, till the date of deposit, payable by the appellant Insurance Company to the 1st to 4th respondents/claimants who



3. Aggrieved by the same, the appellant Insurance Company has filed this Civil Miscellaneous Appeal.



income of the deceased as Rs.13,500/- p.m. The Tribunal has also wrongly deducted 1/3rd of the income towards the personal expenses of the deceased. The Tribunal ought to have deducted 1/4th towards personal expenses of the deceased as per the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12.

11. As per the decision of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680, the Tribunal ought to have added future prospects at 10% to the income of the deceased. As per the decision of the Hon'ble Supreme Court in Magma General Insurance Company Ltd. vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130 : 2018 Online SC 1546, thus the amount awarded towards loss of various consortium is to be modified. The compensation awarded is therefore re-quantified as follows:-

S1 .N o	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	Loss of dependency	*Rs.15,84,000/-	# Rs.14,70,150/-	reduced
2	Medical expenses	Rs. 5,40,000/-	Rs. 5,40,000/-	Confirmed
3	Transport expenses	Rs. 5,000/-	## Rs. 5,000/-	Enhanced
4	Loss of consortium	Rs. 20,000/-	Rs. 40,000/-	Confirmed
5	Loss of love and affection	Rs. 20,000/-	Rs. 1,20,000/-	Enhanced
Total		Rs.22,09,000/-	Rs.21,75,150/- Rounded off to Rs.21,75,000/-	Reduced by a sum of Rs.34,000/ -

* (Rs.18,000 x 1/3x12x11)

(Rs.13,500 + 10% x 12 - 1/4 x 11)

12. Therefore, the appellant-Insurance Company is directed to deposit the re-quantified amount of compensation of Rs.21,75,000/- together with interest at 7.5% from the date of claim petition till the date of such deposit, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.



13. On such deposit, the 1st to 4th respondents are permitted to withdraw their shares together with interest thereon and proportionate costs as directed by the Tribunal, less any amount already withdrawn, by filing suitable applications before the Tribunal.

14. Accordingly, this Civil Miscellaneous Appeal is disposed with the above observations. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(R)

//True copy//

Sub Assistant Registrar

kkd

To

The Motor Accident Claims Tribunal,
(1 Additional District Judge) Salem.

Copy To

The Section Officer,
VR Section, High Court, Madras.

+2ccs to Mr.C.Thangaraju, Advocate SR.No.23945

C.M.A.No.4459 of 2019
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NR(CO)
GMY(25/11/2021)