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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.2.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.1124 of 2013
and M.P.No.1 of 2013

The New India Assurance Company Ltd.
Rep. By its Deputy Manager (Legal),
Coimbatore Divisional Office,
435, D.B. Road, R.S.Puram,
Coimbatore - 641 002. ...Appellant/3rd Respondent

..Vs..

1. Mani @ Rangaraj
2. R.Jayashree
3. Minor Kalaiselvi
4. Minor R.Sadasivam ...Respondents 1 to 4/Claimants
5. Santhosh Kumar
6. M.Suresh Kumar
(Respondents 3 & 4 rep. by its father &
natural Guardian, first respondent herein)
...Respondents 5 & 6/Respondents 1 & 2

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 25.7.2006 made in M.C.O.P.No.197 of 2003 on the file of Principal District Judge (Motor Accidents Claims Tribunal), Coimbatore.

For Appellant : Ms.Vaitheeswari for
Mr.S.Sundaresan

For Respondents : Notice not ready



JUDGMENT

Dissatisfied with the award, dated 25.7.2006 passed in M.C.O.P.No.197 of 2003, by the Motor Accident Claims Tribunal, Coimbatore, the Insurance Company is before this Court against the quantum of Compensation awarded by the tribunal.

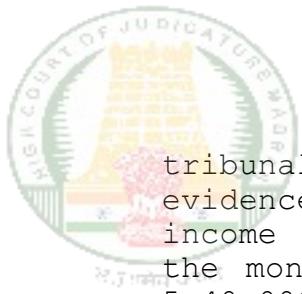
2. It is the case of the claimant that on 20.05.2002 at about 4.45 p.m., while the deceased Lakshmi was walking along Coimbatore-Palakad main road, towards South, near Kuniamuthur Township office at Edayarpalayam, the first respondent drove the Hero Honda motorcycle bearing registration No.TN 37 C 4221 in a rash and negligent manner hit against the pedestrian Lakshmi from behind, thereby caused accident, resulting in the deceased sustained grievous injuries and she was died in the hospital. The legal heirs of the deceased have filed a claim petition before the Tribunal, claiming Rs.15,51,000/- as compensation.

3 The Tribunal, based on the oral and documentary evidence Exs.P1 to P.8, has awarded Rs.4,00,000/- as total compensation along with interest at the rate of 7.5% p.a from the date of petition till realization. The total compensation awarded by the tribunal under various heads are as follows:

Heads	Amount in Rs.
Loss of income to the family	3,60,000/-
Loss of Consortium to the 1 st Petitioner	25,000/-
Loss of love and affection to the petitioners 3 & 4	10,000/-
Funeral expenses	5,000/-
Total :	4,00,000/-

4. Heard the learned counsel appearing for the appellant/Insurance Company and the learned counsel appearing for the respondents/claimants and perused the materials available on record.

5. The main contention of the learned counsel appearing for the appellant/Insurance Company is that the multiplier adopted by the tribunal is without any basis. Ms.Vaitheeswari, learned counsel appearing for the appellant/Insurance Company has vehemently argued that the quantum of compensation awarded by the tribunal is excessive and therefore, the award passed by the tribunal requires modification. According to the learned counsel appearing for the appellant/Insurance company, the



tribunal though accepted the fact that there is no substantial evidence to prove the income of the deceased, fixed the monthly income of the deceased as Rs.3000/- per month. By calculating the monthly income of the deceased as Rs.3000/- x 12 x 15 = 5,40,000/- and after deducting 1/3rd of the income towards personal expenses, the loss of income to the family of the deceased comes to Rs.3,60,000/-. At the time of accident, the deceased was aged about 42 years. As rightly pointed out by the learned counsel appearing for the appellant/Insurance Company, as per Sarala Varma case, the tribunal ought to have adopted 14 multiplier. Thus, calculating the income of the deceased by adopting 14 multiplier, i.e. Rs.3000/- x 12 x 14 = 5,04,000/- and after deducting 1/3rd towards personal income of the deceased, the loss of income to the deceased family comes to Rs.3,36,000/-. Accordingly, the award of the tribunal is modified as follows:

Heads	Compensation awarded by the Tribunal Rs.	Compensation modified/ awarded by this Court (Rs.)
Loss of income to the family	3,60,000/-	3,36,000/-
Loss of Consortium to the 1 st Petitioner	25,000/-	25,000/-
Loss of love and affection to the petitioners 3 & 4	10,000/-	34,000/-
Funeral expenses	5,000/-	5,000/-
Total :	4,00,000/-	4,00,000/-

The compensation awarded by the tribunal is modified to the aforesaid extent. Except the above modification, the award passed by the tribunal is confirmed.

6. The claimants/respondents are entitled to withdraw Rs.4,00,000/- (Rupees four lakhs only) along with interest at the rate of 7.5% p.a. from the date of petition till realization. The appellant/Insurance company is directed to deposit Rs.4,00,000/- along with interest at the rate of 7.5% p.a. from the date of petition till realization, within a period of eight weeks from the date of receipt of copy of the judgment, after deducting the amount if any, already deposited before the tribunal. On such deposit being made by the appellant/Insurance Company, the claimants/respondents are entitled to withdraw the amount by filing appropriate application.



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7. In fine, the Civil Miscellaneous Appeal is partly allowed to the aforesaid extent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal
The Principal District Judge,
Coimbatore.

Copy to

The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.

Civil Miscellaneous Appeal
No.1124 of 2013

VGII (CO)
PR (07/10/2021)