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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CMA No.1088 of 2016

and

CMP No.8067 of 2016

M/s.Reliance General Insurance Company Limited,
Rai's Tower,
Plot No.2054, 2nd Avenue,
2nd Floor,
Next to Senthil Nursing Home,
Anna Nagar,
Chennai - 600 040.

... Appellant/2nd Respondent

Versus

1. Nagarathinam
2. Ellammal
3. M.Dhanapal

... Respondents 1 & 2/Petitioners
... 3rd Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Acts, 1988 against the judgment and decree in MCOP No.2735 of 2011, dated 05.08.2015 on the file of the Motor Accidents (Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant	: Mr.M.B.Raghavan
For Respondents	: Mr.F. Terry Chellaraja for R1 & R2
	R3 - Served - No appearance

JUDGMENT

This appeal has been filed by the Insurance Company challenging the award dated 05.08.2015 passed by the Motor Accident Claims Tribunal IV Court of Small Causes, Chennai in MCOP No.2735 of 2011.

2. The appellant / Insurance Company has challenged the impugned award questioning the quantum of compensation awarded by the Tribunal as according to them, it is excessive.

3. The Tribunal under the impugned award directed the appellant / Insurance Company to pay the respondents 1 and 2 / claimants a compensation of Rs.8,60,000/- together with interests and costs as detailed hereunder :-



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Heads	Amount awarded by the Tribunal (Rs.)
Loss of dependency	2,70,000
Love and affection	4,00,000
Funeral expenses	25,000
Medical expenses	1,65,000
Total	8,60,000

4. Heard Mr.M.B.Raghavan, learned counsel for the appellant / Insurance Company and Mr.F.Terry Chellaraja, learned counsel for the respondents 1 and 2. Despite service of notice on the 3rd respondent, there is no representation on his side.

5. This Court has perused the materials and evidence available on record before the Tribunal.

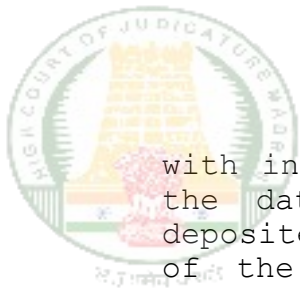
6. The deceased was a Student when the accident happened on 11.07.2010 and he was aged 16 years. The Tribunal has fixed the notional annual income of the deceased at Rs.15,000/- and has applied the correct multiplier of 18 and has awarded a compensation towards loss of dependency at Rs.2,70,000/-, which in the considered view of this Court is low.

7. The Tribunal ought to have fixed the notional annual income of the deceased at a much higher sum. However, the Tribunal has awarded a compensation of Rs.4,00,000/- towards loss of love and affection, which is extremely high, if the decision of the Hon'ble Supreme Court in the case of National Insurance Co. Ltd. vs. Pranay Sethi reported in 2017 16 SCC 680 is taken as a yardstick.

8. Similarly, the Tribunal has awarded a compensation of Rs.25,000/- towards funeral expenses, which is also high. However, this Court is of the considered view that in view of the fact that the notional annual income of the deceased fixed at Rs.15,000/- by the Tribunal is too low, the overall compensation of Rs.8,60,000/- awarded by the Tribunal cannot be considered to be excessive and it is a just compensation.

9. For the foregoings reasons, this Court does not find any merit in this appeal and the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together



with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No. 2735 of 2011 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the respondents 1 and 2 / claimants through RTGS, within a period of two weeks thereafter as per the ratio of apportionment fixed by the Tribunal.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vsi2

To

1.The Judge,
IV Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

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

+1cc to Mr.F.Terry Chellaraja, Advocate, S.R.No. 28046

CMA No.1088 of 2016

GPL(CO)
GN(13/09/2021)