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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2714 of 2019

1.Narasimman
2.Usha

...Appellants

Vs.

1.S.Pratap
2.The Oriental Insurance Company Ltd,
Third Party Claims Cell (HUB),
Near Murugan Theatre,
Sathuvachari, Vellore - 9.
(No relief sought against the 1st respondent.
Hence notice may be dispensed with)

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree order dated 23.04.2018 made in M.C.O.P.No.74 of 2016, on the file of the Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Ranipet, Vellore District.

For Appellants : Mr.M.Sivakumar

For Respondents : Mr.J.Vijayaraghavan for R2
No appearance for R1

JUDGMENT

The claimants are the parents of the deceased Parameswaran aged about 21 years who lost his life when he met with an accident on 22.01.2015. By the impugned judgment and decree, the Tribunal fixed 95% negligence on the part of the driver of the Tata Sumo belonging to 1st respondent and 5% negligence on the part of the deceased for not having valid and effective driving license at the time of accident, has awarded a sum of Rs.6,83,000/- as compensation by considering the notional income of the deceased at Rs.6,000/- per month, and directed the 2nd respondent/Insurance Company to pay a sum of Rs.6,48,850/- being 95% of the award amount as compensation to the appellants at the first instance and recover the same from the 1st respondent. Challenging the quantum of compensation awarded by the Tribunal, the present appeal has been filed for enhancement of the



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compensation. The learned counsel for the appellant submits that the accident is of the year 2015 and therefore the notional income considered by the Tribunal was disproportionately low and therefore he submits that the income of the deceased may be considered as Rs.15,000/- per month for awarding enhanced compensation.

2.The learned counsel for the appellant further submits that this court has passed an order in C.M.A.No.1069 of 2013 dated 01.09.2020 wherein in the case of a Final year B.E. student, this court has considered the notional income of Rs.18,000/- per month to award compensation for an accident of the year 2009.

3.Defending the impugned judgment and decree, the learned counsel for the 2nd respondent/Insurance Company submits that the Tribunal has awarded just compensation and that the notional income of Rs.6,000/- was correct for awarding the compensation.

4.I have perused the impugned judgment and decree and the evidence on record which form the basis on the impugned judgment and decree. I have also considered the arguments advanced by the learned counsel for the appellant and the 2nd respondent/Insurance Company.

5.In my view, the Tribunal has considered a meagre notional income of Rs.6,000/- for awarding the above compensation. Therefore, with a view to award a just compensation for the loss of their son, I am inclined to consider the notional income of the deceased as Rs.12,500/-considering the fact that the deceased was a 3rd year B.E. Student. At the same time "Pay and Recover" ordered by the Tribunal is confirmed.

6.Under these circumstances, the compensation awarded by the Tribunal is re-quantified as follows:-

Monthly Notional Income	Rs.12,500/-	Rs.18,90,000/-
+ Future Prospectus 40%	Rs. 5,000/-	
* as per National Insurance Co. Ltd. Vs. Pranay Sethi and Others, (2017) 16 SCC 680		

	Rs.17,500/-	
Personal expenses 50%	Rs.8,750/-	
Annual Contribution to the family (8,750 x 12)	Rs.1,05,000/-	
(Multiplier x 18)	Rs.18,90,000/-	



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Loss of love and affection/Filial consortium * as per Magma Insurance Company Limited Vs Nanuram @ Chuhruram and others, (2018) 18 SCC 130	Rs.80,000/-
Transportation and funeral expenses	Rs.25,000/-
Total	Rs.19,95,000/-
95% of the award amount	Rs.18,95,250/-

7.The 2nd respondent/Insurance Company is therefore directed to deposit a sum of Rs.18,95,250/-, being 95% of the award amount as compensation together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of eight weeks from the date of receipt of a copy of this Judgment, at the first instance and recover the same from the 1st respondent.

8.On such deposit being made by the 2nd respondent/Insurance Company, the appellants/claimants are permitted to withdraw their share together with interest accrued thereon, less any amount already withdrawn in the same proportion as was ordered by the Tribunal.

9.This Civil Miscellaneous Appeal stands Partly Allowed with the above observations. No costs.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

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To:

1.The Motor Accidents Claims Tribunal,
II Additional District and Sessions Court,
Ranipet, Vellore District.

Copy To

The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to M/s.C.Prabakaran, SR.No.25745

C.M.A.No.2714 of 2019

VSN-II (CO)
RVM(02/12/2021)