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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A. NO.2843 OF 2015

AND

MP NO.1 OF 2015

The Branch Manager,
M/s.HDFC - ERGO General Insurance
Company Limited,
Regional Office,
Andheri - Kurla Road,
Andheri East,
Mumbai - 400 059.

...Appellant/Petitioner

versus

1. Kanchana

2. Minor Vikram

3. R.Kanchana

4. M/s.SNJ Distillers Pvt. Ltd.,
Kallapiranpuram Village,
Madurantagam Taluk,
Kanchipuram District.

5. V.Syed Vaheed (died),
Rep. By Receiver
Tmt. Mehara Nigar
(As per orders passed
in I.A. No.498 of 2015
in O.S.No.319 of 2015,
dated 13.09.2015,
on the file of
District Munsif Court, Hosur.

...Respondents/Respondents



Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 04.09.2015 passed in MCOP No.669 of 2012, by the Motor Accident Claims Tribunal (Additional District Judge) at Krishnagiri.

For Appellant : Mr.J.Michael Visuvasam

For Respondents : R1 to R4 - Served -
No appearance

JUDGMENT

This appeal has been filed by the Insurance Company challenging the award dated 04.09.2015 passed by the Motor Accident Claims Tribunal (Additional District Judge), Krishnagiri in M.C.O.P. No.669 of 2012.

2. The appellant / Insurance Company has challenged the impugned award on the following grounds :-

a) The Tribunal has erroneously adopted the multiplier of 16 instead of 15 as the deceased was aged 36 years as per post mortem certificate which was marked as Ex.P2.

b) The Tribunal has erroneously fixed the notional income of the deceased at Rs.12,000/-, which according to the appellant / Insurance Company is very high.

c) The Tribunal has erroneously deducted 1/4th towards personal expenses of the deceased over looking the number of dependants / claimants, who are three in number and therefore, the correct deduction according to the appellant / Insurance Company is 1/3rd.

3. The Tribunal under the impugned award has directed the appellant / Insurance Company to pay the respondents / claimants, who are the dependants of the deceased a compensation of Rs.19,23,000/- as detailed hereunder :



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Heads	Amount awarded by the Tribunal (Rs.)
Loss of dependency	17,28,000/-
Loss of love and affection	75,000/-
Loss of consortium	50,000/-
Medical bill as per Ex.P.10	10,000/-
Inpatient bill as per Ex.P.11	50,000/-
Funeral expenses	10,000/-
Total	19,23,000/-

4. Heard Mr.J. Michael Visuvasam, learned counsel for the appellant / Insurance Company. Despite service of notice on the respondents, there is no representation on their behalf.

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

6. The deceased Senthil was aged 31 years at the time of the accident. In the claim petition filed by the respondents / claimants, who are the legal Representatives and the dependants of the deceased, they have pleaded that Senthil was self employed and a wholesale vegetable vendor and was earning Rs.20,000/- p.m. The accident happened on 21.01.2012. As seen from the impugned award the Tribunal has not awarded any compensation towards loss of future prospects, which the respondents / claimants are entitled at the rate of 40% as per 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. Accordingly, this Court awards 40% towards loss of future prospects to the respondents / claimants.

7. The correct multiplier to be adopted for a person aged 36 years is 15 and not 16 as fixed by the Tribunal. Hence, the same is modified by this Court to 15 instead of 16.



8. The Tribunal has also erroneously deducted 1/4th towards personal expenses of the deceased instead of 1/3rd as the dependants / claimants are three in number. Accordingly, this Court modifies the deduction to 1/3rd instead of 1/4th made by the Tribunal.

9. The Tribunal has also fixed the notional monthly income of the deceased at Rs.12,000/- for the accident that happened in the year 2012 without any documentary evidence, which in the considered view of this Court is also high. However, by taking into consideration, the overall compensation awarded by the Tribunal and in view of the fact that the loss of future prospects has not been awarded which the respondents /claimants are legally entitled to at the rate of 40%, this Court is of the considered view that the total compensation awarded by the Tribunal under the impugned award cannot be considered to be excessive as alleged by the appellant / Insurance Company.

10. In the result, there is no merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11. 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 MCOP No.669 of 2012, by the Motor Accident Claims Tribunal (Additional District Judge) at Krishnagiri, within a period of four 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 3 /claimants 1 and 3, as per the same ratio of apportionment made by the Tribunal, through RTGS, within a period of two weeks thereafter. Insofar as the share of the second respondent / minor claimant is concerned, the same shall be deposited in Fixed deposit in any one of the Nationalized Banks, till he attains the age of majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimant once in three months, directly from the Bank. If the second respondent / minor claimant has attained the age of majority, it is open to him to



file formal petition before the Tribunal to get his share of apportionment.

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Sd/-

Deputy Registrar(Lok Adalat)

// True Copy //

Sub Assistant Registrar

vsi2

To :

1. The Motor Accident Claims Tribunal
(Additional District Judge) at Krishnagiri.
2. The Section Officer,
V.R. section,
High Court, Madras - 104.

+1cc to Mr.J.Michael Visuvasam, Advocate, S.R.No.26816

C.M.A. No.2843 of 2015

NK(CO)
RLP(08/11/2021)