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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 01.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.3 of 2013 and

M.P.No.1 of 2013

United India Insurance Co. Ltd.
Branch Office-1, First Floor, Hosur main Road,
Madhiwala, Bangalore 560 068. ... Appellant/2nd respondent

Vs.

1. Shanthi
2. Minor Mekala
3. Minor Sankar
Minors are rep by next friend and first petitioner
Shanthi)
4. Chinnamma
5. Ponnusamy ... Respondents 1 to 5/ claimants
6. P.Subramani ... 6th respondent/ first respondent

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 23.05.2006 passed in MCOP No.91 of 2004 on the file of the Additional District Judge, Motor Accident Claims Tribunal, Dharmapuri.

For Appellant : Mr.S.Arunkumar
For respondents 1 to5 : No appearance
For 6th respondent : No such person

J U D G M E N T

Aggrieved over the award passed by the Tribunal, the insurance company has filed the present appeal challenging the quantum of compensation.

2. The claimants have filed a claim petition before the Tribunal seeking compensation of Rs.30,00,000/- for the death of



one P.Madhu, husband of the first claimant; father of the second and third claimants; and son of the fourth and fifth claimants, in a road accident that took place on 14.01.2004.

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3. The brief case of the claimants is as follows: The deceased was working as a Head Constable in Tamil Nadu Police Service at Thoppur Police Station. On 14.01.2004, the deceased was standing on the left side mud portion of the road, near Thoppur Check Pose and was regulating traffic and at about 4.00 a.m. a speedy lorry bearing registration No.KA-01-D-9612 came from Dharmapuri towards Salem, hit the deceased and ran over him, thereby he sustained crush injuries on his right hip, thigh and he was taken to Government Head Quarters Hospital, Dharmapuri, however, he succumbed to the injuries. According to the claimants, the rash and negligent driving of the driver(first respondent) of the lorry was the cause of accident and since the first respondent/ owner of the vehicle insured his lorry with the second respondent/ insurance company, both of them are liable to pay compensation.

4. The claim petition was resisted by the Insurance company by filing counter affidavit.

5. Before Tribunal, the first claimant and two other witnesses were examined as PW1 to PW3 respectively and Ex.P1 to Ex.P11 were marked. On the side of the respondents, no oral and documentary evidence was adduced.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.12,77,000/- as compensation to the claimants under various heads as extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Loss of dependency to the claimants($8000 \times 12 = 96,000 - 1/3 = 64,000 \times 18$)	1,15,2000
2	Loss of consortium to first claimant	25000
3	Loss of love and affection to the first claimant	25000
4	Loss of love and affection to the second and third Rs.25,000/- each	50000



Sl No	Heads	Amount in Rs.
5	Loss of Love and affection to the fourth and fifth claimant Rs.10,000/- each	20000
7	Funeral expenses	5000
	Total	12,77,000

Challenging the quantum of compensation awarded by the Tribunal, the insurance company has filed the present appeal to scale down the compensation.

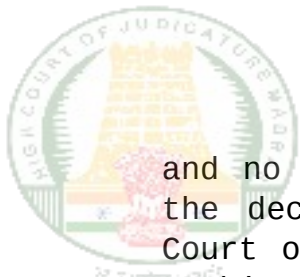
7. Heard the learned counsel for the appellant and I have perused the materials on record.

8. The learned counsel appearing for the appellant/ insurance company submitted that the deceased was aged 39 years, however, the Tribunal has erred in adopting multiplier '18' instead of '16' . He also submitted that the Tribunal has awarded huge amount of Rs.1,25,000/- towards conventional damages and therefore, the compensation awarded by the Tribunal has to be scaled down.

9. Now the point for consideration is whether the compensation awarded by the Tribunal has to be scaled down.

10. Point

It is admitted fact that the deceased Madhu was a Head Constable in the Police Department and was aged 39 years on the date of accident. The Tribunal has perused the salary certificate Ex.P9 and after considering the remaining service, that would have been served by the deceased, has rightly fixed the monthly income of the deceased as Rs.8,000/-. Further, considering the various factors and after analysing the materials on record, the Tribunal has awarded a just and reasonable compensation as extracted above. The only point to be considered by this case is, the multiplier adopted by the Tribunal is '18' which is wrong, and as per the decision rendered by the Honourable Supreme Court in Sarla Varma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, it should be '16'. However, no amount was added to the income of the deceased towards " Future Prospects"



and no amount was awarded towards, " Loss of estate", as per the decision of the Constitution Bench of the Hon'ble Supreme Court of India in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 609 (SC),. Therefore, this court is of the view that the findings of the Tribunal does not warrant any interference by this court and the appeal fails. The point is answered accordingly.

11. In the result

(i) The Civil Miscellaneous Appeal dismissed. No costs. The connected civil miscellaneous petition is closed.

(ii) The appellant/insurance company is directed to deposit the compensation as awarded by the Tribunal with accrued interest, from the date of claim petition till the date of deposit, less the amount if already deposited, within a period of six weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the insurance company, the claimants are entitled to withdraw the same, as per the apportionment made by the Tribunal, after following due process of law.

Sd/-

Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1. The Additional District Judge,
Motor Accident Claims Tribunal, Dharmapuri
2. United India Insurance Co. Ltd.
Branch Office-1, First Floor, Hosur main Road,
Madhiwala, Bangalore 560 068.
3. The Section Officer, V.R.Section, Madras High Court, Chennai.

+1CC to M/s.S.Arun Kumar, Advocate, SR.No. 13292

CMA. No.3 of 2013
and M.P.No.1 of 2013

RSV(CO)

B.VC (16/09/2021)