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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2021

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA.Nos.454 & 455 of 2016
and
M.P.Nos.3417 & 3418 of 2016

United India Insurance Company Limited
represented by its Branch Manager,
K.M.S.Complex, No.1019,
Salem Main Road, Attur - 636 102.

... Appellant/3rd Respondent
in both Appeals

Vs.

1. Rangasamy
2. Minor.Ilavarasan, 14 years,
Minor represented by his next friend and father Rangasamy

...1st & 2nd Respondents/Claimants
in CMA.No.454/2016

3. T.Sasikumar
4. T.Murugesan

... 3rd & 4th Respondents/1st & 2nd Respondents
in CMA.No.454/2016

1. Kanagam
2. Sivagamy
3. Rangasamy

...1 to 3 Respondents /Claimants
in CMA.No.455/2016

4. T.Sasikumar
5. T.Murugesan

... 4 & 5th Respondents/1st & 2nd Respondents
in CMA.No.455/2016

COMMON PRAYER: These Civil Miscellaneous Appeals have been filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 30.04.2015, made in M.C.O.P.Nos.80 & 585



of 2013, on the file of the Motor Accidents Claims Tribunal,
Special District Court (learned District Judge), Krishnagiri.

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For Appellant
in both petitions : Mr.S.Arun Kumar

For Respondents
in both petitions : No appearance,
Set exparte

COMMON ORDER

These Civil Miscellaneous Appeals are preferred by the Insurance Company, challenging the award passed in MCOP.Nos.80 of 2013, for the death of one Tamilselvi, aged 35 years and the award passed in MCOP.No.585 of 2013, for the death of one Karuppayi aged 65 years.

2.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the vehicle and validity of the Insurance are not in question.

3.Heard Mr.S.Arun Kumar, learned counsel for the appellant/Insurance Company. Though the respondents have been served, none appeared on behalf of them and hence, the respondents set ex-parte.

4.CMP.No.454 of 2016 (MCOP.No.80 of 2013):

(a)On the point of quantum, the learned Motor Accidents Claims Tribunal, Krishnagiri, by relying upon the evidence of PW1/Rangasamy, who is the husband of the deceased and also by relying upon the Ex.P16 & P17, which shows the avocation of the deceased/Tamilselvi, fixed income at Rs.300/- per day and it was taken for calculation as notional income of the deceased in the absence of proof of income. Hence, notional income of the deceased was fixed at Rs.9,000/- per month. As per Ex.P2/Post-mortem certificate, the deceased was 35 years and multiplier 16 was adopted. Since, the deceased have two dependants, 50% deduction was allowed.

(b)Hence, this Court finds that the compensation awarded by the Motor Accidents Claims Tribunal does not suffer from any irregularity in assessment of the compensation amount of Rs.11,05,000/- and it is just and reasonable. Furthermore, the Tribunal not awarded any compensation towards future prospects because the judgment of the Supreme Court in this regard came



into force only at later point of time.

(c) In this view of the matter, CMA.No.454 of 2016 stands dismissed and the award passed by the Tribunal stands confirmed.

5. CMA.No.455 of 2016 (MCOP No.585 of 2013):

(a) The claim petition was filed in respect of the death of one Karuppayi, aged 65 years. The deceased was having three dependants and hence, 1/3rd deduction was allowed by the Tribunal. As per the ruling of the Hon'ble Supreme Court in Latha Wadhwa's case, the Tribunal has fixed the notional income at Rs.200/- per day. Hence, Rs.6,000/- per month was fixed for notional income and has awarded total compensation of Rs.4,11,000/-.

(b) On a perusal of the Tribunal order, this court is of the opinion that since the deceased is a senior citizen, the dependants are the sons of the deceased, deduction ought to have been ½ (50%) and future monthly income is reassessed at 6,000 x ½ = Rs.3,000/-. Accordingly the compensation under the head of future loss of income is reassessed as under:
 $3,000 \times 12 \times 7 = 2,52,000/-$

The compensation granted under all other heads are held to be intact. However, compensation awarded for future loss of income is reduced to Rs.2,52,000/- from Rs.3,36,000/-.

S.No.	Description	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Future loss of income	3,36,000/-	2,52,000/-
2	Love and affection	45,000/-	45,000/-
3	Transportation Expenses	10,000/-	10,000/-
4	Funeral Expenses	20,000/-	20,000/-
5	Total	4,11,000/-	3,27,000/-

Hence, compensation awarded by the Tribunal is modified from Rs.4,11,000/- to Rs.3,27,000/- (Rupees Three Lakhs Twenty Seven Thousand Only).

(c) In this view of the matter CMA.No.455 of 2016 is partly allowed to the limited extent as indicated above.

6. In the result,

(a) CMA.No.454 of 2016 stands dismissed.

(b) CMA.No.455 of 2016 stands partly allowed to the



limited extent as indicated above.

(c) No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

Motor Accidents Claims Tribunal,
Special District Court (learned District Judge), Krishnagiri.

+lcc to Mr.S.Arunkumar, Advocate, S.R.No.8171

CMA.Nos.454 & 455 of 2016
and
M.P.Nos.3417 & 3418 of 2016

SSI (CO)
SU (29/09/2021)