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In the High Court of Judicature at Madras

Dated : 22.7.2021

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The Honourable Mr. Justice ABDUL QUDDHOSE

Civil Miscellaneous Appeal No.691 of 2016
and Cross Objection No.32 of 2017

National Insurance Company
Ltd., Divisional Office,
Court Road, Tirupur

...Appellant /II Respondent in
CMA & R1 in Cross Obj.

Vs

1.R.Dhanalakshmi
2.P.Rajangam

...R1 & R2 /Petitioners in
CMA & cross objectors in Cross.Obj.

3.S.Arunkumar

...R3 in /1st Respondent &
CMA & R2 in Cr.Obj.

APPEAL under Section 173 of the Motor Vehicles Act, 1988
against the fair and decretal order dated 22.1.2014 in
MCOP.No.519 of 2012 on the file of the Motor Accidents Claims
Tribunal (Subordinate Court), Sathyamangalam; and

CROSS OBJECTION under Order XLI Rule 22 of the Civil
Procedure Code against the fair and decretal order dated
22.1.2014 in MCOP.No.519 of 2012 on the file of the Motor
Accidents Claims Tribunal (Subordinate Court), Sathyamangalam.

For Appellant in CMA &
R1 in Cross Obj.

: Mr.K.Padmanabhan

For R1 & R2 in CMA &
cross objectors in
Cross.Obj. :

: Mr.J.Hariharan for
Mr.V.Nicholas

R3 in CMA &
R2 in Cr.Obj.

: set ex parte

COMMON JUDGMENT

I have heard the learned counsel appearing on both sides.

2. The above civil miscellaneous appeal has been filed by
the Insurance Company challenging the award dated 22.1.2014



passed in MCOP.No.519 of 2012 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Sathiyamangalam.

3. The cross objection has been filed by the claimants seeking enhancement of compensation under the very same impugned award.

4. The details of compensation awarded by the Tribunal under the impugned award are as follows :

"a. Loss of dependency to the family of the deceased :	Rs.7,80,000/-
b. Loss of love and affection :	Rs. 30,000/-
c. Transport :	Rs. 5,000/-
d. Funeral expenses :	Rs. 10,000/-
e. Loss of estate	Rs. 60,000/-

Total : Rs. 8,85,000/-

5. The deceased Kannan was an engineering student aged 19 years at the time of accident, which happened on 24.9.2012. The Tribunal fixed the notional monthly income of the deceased based on the evidence available on record at Rs.10,000/-, which is a correct assessment since the accident took place on 24.9.2012.

6. The claimants filed 10 documents, which were marked as Ex.A1 to Ex.A10 before the Tribunal and two witnesses were examined on their side namely Dhanalakshmi - mother of the deceased as PW1 and an eyewitness to the accident as PW2. On the side of the Insurance Company, neither any witness was examined nor any document was filed before the Tribunal. The Insurance Company also has not disputed that the deceased was an engineering student and aged 19 years at the time of accident. Only after giving due consideration of the aforementioned factors, the Tribunal fixed the notional monthly income of the deceased at Rs.10,000/- for an accident that happened in the year 2012. Therefore, the said assessment is a correct assessment.

7. The Tribunal has erroneously failed to award any compensation towards loss of future prospects to the claimants in accordance with the settled law laid down by the Hon'ble Supreme Court in the case of National Insurance Co. Ltd. Vs. Pranay Sethi [reported in 2017 (16) SCC 680]. The deceased was aged 19 years and was an engineering student at the time of accident. In accordance with the law laid down by the Hon'ble Supreme Court in the case of Pranay Sethi referred to supra, the



claimants are entitled to 50% towards loss of future prospects. Therefore, this Court awards 50% towards loss of future prospects to the claimants, which the Tribunal has erroneously omitted to award.

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8. The Tribunal has rightly deducted 50% towards personal expenses of the deceased and the same is hereby confirmed by this Court. The Tribunal has also rightly adopted 13 as multiplier after giving due consideration to the age of the deceased, who was 19 years old at the time of accident. In view of the addition of loss of future prospects by this Court, the loss of dependency payable to the claimants is enhanced to Rs.11,70,000/- instead of Rs.7,80,000/- erroneously fixed by the Tribunal.

9. The Tribunal has erroneously awarded a lesser compensation towards loss of love and affection at Rs.30,000/-. In accordance with the decision of the Hon'ble Supreme Court in the case of Pranay Sethi referred to supra, the parents of the deceased namely the claimants are entitled to Rs.40,000/- each and therefore, the compensation payable towards loss of love and affection has to be enhanced to Rs.80,000/- instead of Rs.30,000/- erroneously fixed by the Tribunal.

10. The Tribunal erroneously awarded a compensation of Rs.5,000/- towards transportation, which has to be enhanced to Rs.10,000/- as per the decision of the Hon'ble Supreme Court in the case of Pranay Sethi referred to supra and it is hereby enhanced to Rs.10,000/-.

11. The Tribunal has awarded a lesser compensation of Rs.10,000/- towards funeral expenses, which has to be enhanced to Rs.15,000/- and it is hereby enhanced to Rs.15,000/- as per the decision of the Hon'ble Supreme Court in the case of Pranay Sethi referred to supra.

12. The Tribunal has erroneously awarded a higher compensation of Rs.60,000/- towards loss of estate, which has to be necessarily reduced to Rs.15,000/- by this Court in accordance with the decision of the Hon'ble Supreme Court in the case of Pranay Sethi referred to supra and it is hereby reduced to Rs.15,000/- instead of Rs.60,000/-.

13. For the foregoing reasons, the above civil miscellaneous appeal is dismissed and the cross objection is partly allowed and the total compensation awarded under the impugned award is enhanced from Rs.8,85,000/- to Rs.12,90,000/- (Rupees twelve lakhs and ninety thousand only) as detailed hereunder :



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(a) Loss of dependency	: Rs.11,70,000/-
(b) Loss of love and affection	: Rs. 80,000/-
(c) Transportation :	Rs. 10,000/-
(d) Funeral expenses :	Rs. 15,000/-
(e) Loss of estate :	Rs. 15,000/-

Total: Rs.12,90,000/-

No costs.

14. The appellant - Insurance Company is directed to deposit the entire award amount as determined by this Court in this appeal together with interest at the rate of 7.5% per annum from the date of petition till date of realization less the amount already deposited to the credit of the claim petition within two weeks from the date of receipt of a copy of this judgment. This Court, by order dated 27.4.2017, permitted the claimants to withdraw 50% of their respective shares as apportioned by the Tribunal. It is made clear that on deposit of the entire award amount to the extent indicated in this judgment, the Tribunal is directed to transfer the balance award amount together with interest lying to the credit of the claim petition directly to the respective bank accounts of the claimants as apportioned by the Tribunal through RTGS within two weeks thereafter.

Sd/-

Assistant Registrar

//True Copy//

RS

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal
(Subordinate Court), Sathiyamangalam.

Copy To

The Section Officer,

VR Section, High Court, Madras.

+1cc to Mr.V.Nicholas, Advocate SR.No.34900

+1cc to Mr.K.Padmanabhan, Advocate SR.No.35456

CMA.No.691 of 2016 and
Cross Obj.No.32 of 2017

PVS(CO)

GN(22/11/2021)