



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CMA No.805 of 2016

and

CMP No.6456 of 2016 and CMP No.12346 of 2017

Royal Sundaram Alliance Insurance Co. Ltd.
No.45 & 46, Whites Road,
Royapettah,
Chennai - 600 014.

... Appellant/2nd Respondent

Versus

1. P.Govindammal
2. Santhakumar
3. Minor Kaviyarasi

(Minor respondent represented by her
next friend and mother 1st respondent)

- | | |
|--------------|---|
| | ... 1 to 3 rd Respondents/Petitioners |
| 4. S. Rangan | ... 4 th Respondent/1 st Respondent |
| 5. Kasthuri | ... 5 th Respondent/3 rd Respondent |

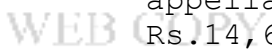
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 30th day of June, 2015 made in M.C.O.P. No.940 of 2013 on the file of Motor Accident Claims Tribunal (Special District Court for Motor Accident Claims Cases), Krishnagiri.

For Appellant	:	Mr.K.Vinod
For Respondents	:	M/s.Mukund R. Pandiyan
		for R1 & R2
		R3 - Minor rep. by R1
		R4 - Served - No appearance
		R5 - Died

JUDGMENT
(Heard Video Conference)

This appeal has been filed by the Insurance company challenging the award dated 30.06.2015 passed by the Motor Accident Claims Tribunal (Special District Court), Krishnagiri in MCOP No.940 of 2013.

2. The appellant / Insurance Company has challenged the impugned award only on the ground that the quantum of



3. The Tribunal under the impugned award directed the appellant / Insurance Company to pay a compensation of Rs.14,69,000/- together with interest and costs as detailed hereunder :-

4. Heard Mr.K.Vinod, learned counsel for the appellant / Insurance Company and M/s.Mukund R. Pandiyan, learned counsel for the 1st and 2nd respondents. Despite service of notice on the 4th respondent, there is no representation on his side. Pending Appeal, the 5th respondent is dead.

6. The deceased Nandan @ Nandakumar, died on 03.03.2010 as a result of an accident caused by a vehicle insured with the appellant / Insurance Company. The claimants are his wife and two children and his mother was arrayed as 3rd respondent in the claim petition. In the claim petition, the claimants have pleaded that the deceased was aged 40 years and was a Driver cum Cleaner, earning Rs.15,000/- per month along with



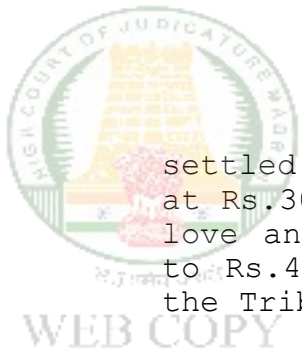
7. The Tribunal has fixed the notional monthly income of the deceased at Rs.9,000/-p.m. and the age and avocation of the deceased has not been disputed by the appellant / Insurance Company before the Tribunal. The accident happened on 03.03.2010. No supporting document has been filed by the claimants before the Tribunal to prove that the deceased was earning Rs.9,000/-p.m. at the time of the accident. This Court is of the considered view that when no supporting documents were filed by the claimants to prove that the deceased was earning Rs.9,000/-p.m. as a Driver in the year 2010, the Tribunal ought not to have fixed the monthly income of the deceased at Rs.9,000/- as it is on the higher side.

8. However, the Tribunal has erroneously failed to award any compensation towards loss of future prospects, which the claimants are legally entitled to as per the decision of Hon'ble Supreme Court in the case of National Insurance Co. Ltd. vs. Pranay Sethi reported in 2017 16 SCC 680. If the loss of future prospects was granted by the Tribunal at 25% to the claimants in accordance with the settled law, the fixation of the notional monthly income of the deceased at Rs.9,000/- though it is on the higher side will become immaterial. If the loss of future prospects is added, the overall compensation towards loss of dependency cannot be considered to be excessive as alleged by the appellant / Insurance Company. Accordingly, the loss of dependency assessed by the Tribunal at Rs. 11,34,000/- to the claimants is confirmed by this Court.

9. With regard to the compensation awarded by the Tribunal towards loss of consortium at Rs.50,000/- is concerned, the same is on the higher side and not in accordance with Pranay Sethi's case referred to supra. As per the said decision, the first claimant, who is the wife of the deceased is only entitled to rs.40,000/- and not Rs.50,000/- fixed by the Tribunal. Accordingly, the loss of consortium is reduced to Rs.40,000/- from Rs.50,000/- fixed by the Tribunal.

10. Similarly, the compensation awarded by the Tribunal to the second and third claimants, who are the children of the deceased at Rs.2,00,000/- is on the higher side and not in accordance with the settled law. If the decision of the Hon'ble Supreme Court in the case of Pranay Sethi's case, referred to supra is applied, each of the children will be entitled only to Rs.40,000/- and the deceased having two children both put together will be entitled to Rs.80,000/- and not Rs.2,00,000/- fixed by the Tribunal. Accordingly, the same is modified by this Court to Rs.80,000/-, i.e., Rs.40,000/- each for two children.

11. Similarly, the mother of the deceased, who was the 3rd respondent in the claim petition is entitled to Rs.40,000/- towards loss of love and affection in accordance with the



settled law, but the Tribunal has erroneously fixed the same at Rs.30,000/-. Accordingly, the compensation towards loss of love and affection to the mother of the deceased is enhanced to Rs.40,000/- by this Court instead of Rs.30,000/- fixed by the Tribunal.

12. As regards the compensation awarded by the Tribunal towards transportation charges at Rs.10,000/- is concerned, the same will not arise as it is a fatal accident claim. Hence, the same is set aside by this Court.

13. The Tribunal has also erroneously awarded a higher compensation towards funeral expenses and loss of estate, which is not in accordance with Pranay Sethi's case, referred to supra. If the said decision was applied, the correct compensation payable towards funeral expenses and loss of estate are Rs.15,000/- each. Accordingly, the same is modified by this Court.

14. For the foregoing reasons, the award of the Tribunal is hereby modified in the following manner :

Heads	Amount awarded by the Tribunal (Rs.)	Amount reduced by this Court (Rs.)
Future loss of income	1134000	1134000
Loss of consortium for the petitioner had lost her husband at the age of 39 years for the rest of her life	50000	40000
Loss of love and affection to the second petitioner and minor petitioner 3 who had lost their father in their future life (Rs.1,00,000 x 2)	200000	80000
Loss of love and affection for the 5 th respondent herein / 3 rd respondent in claim petition who had lost her son, financial supporter in the evening of her life	30000	40000
Transport to Hospital	10000	-
Funeral Expenses	20000	15000
Loss of estate	25000	15000
	1469000	1324000



15. In the result, the appeal filed by the appellant / Insurance Company, stands partly allowed by reducing the compensation from Rs.14,69,000/- to Rs.13,24,000/- as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

16a. The appellant / Insurance Company is directed to deposit the reduced award amount, as assessed by this Court 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 M.C.O.P. No.940 of 2013 on the file of Motor Accident Claims Tribunal (Special District Court for Motor Accident Claims Cases), Krishnagiri, within a period of four weeks from the date of receipt of a copy of this Judgment. It is made clear that the appellant / Insurance Company is permitted to withdraw excess amount, if any paid by them.

16b. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the respondents 1, and 2 /major claimants, 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 5th respondent, who is the mother of the deceased, who died pending Appeal it shall be apportioned between the 1st, 2nd and 3rd respondents in equal proportions.

16c. Insofar as the share of the third respondent / minor claimant is concerned, the same shall be deposited in Fixed deposit in any one of the Nationalized Banks, till she 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 third respondent / minor claimant has attained the age of majority, it is open to her to file formal petition before the Tribunal to get her share of apportionment.

Sd/-

Assistant Registrar (T & P)

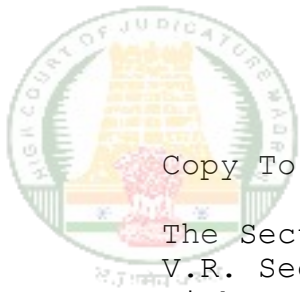
//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Special District Judge,
The Special District Court,
Motor Accident Claims Cases,
Krishnagiri.



Copy To

The Section Officer,
V.R. Section
High Court of Madras,
Chennai - 104.

+1cc to Mr.Elveera Ravindran, Advocate, S.R.No.31252
+1cc to Mr.Mukund R.Pandiyan, Advocate, S.R.No.31536

CMA No.805 of 2016

SRA (CO)
GN (02/11/2021)