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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.2491 OF 2019

1.Mangammal

2.P.Naga

3.M.Dhatchinamurthy

4.P.Gangammal

5.S.Sumathi

6.M.Velammal

... Appellants/Petitioners

Vs.

1. A.Elumalai

2. Reliance General Insurance Co.Ltd,
C/o.Motor III Party Claims Office,
No.6, Haddows Road,
Chennai - 6.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 09.11.2018 made in M.C.O.P.No.3728 of 2015 on the file of the Chief Judge at Small Causes Court, Chennai.

For Appellants : Mr.T.R.Balachandran

For Respondents: Mr.E.Rajadurai for
M/s.M.B.Gopalan Associates for R2
R1 - Exparte



JUDGMENT

The claimants are the appellants in this appeal. They are aggrieved by the impugned judgment and decree in so far as quantum of compensation that has been awarded by the Tribunal. By the impugned Judgment and decree dated 09.11.2018 in M.C.O.P.No.3728 of 2015 passed in Motor Accidents Claims Tribunal, Chief Judge at Small Causes Court at Chennai awarded a sum of Rs.7,25,000/- as compensation to the appellants.

2.In this appeal, the appellants seek for enhancement of compensation on the ground that the Tribunal has wrongly considered the notional income of the deceased as Rs.6,500/- instead of Rs.10,000/-. It is further submitted that the Tribunal has not awarded any amount towards Loss of Love and affection to the mother and the siblings of the deceased.

3.Defending the impugned judgment and decree, the learned counsel for the 2nd respondent/Insurance Company submits that the Tribunal has considered correctly notional income of the deceased and has awarded a just compensation.

4.I have considered the arguments advanced by the learned counsel for the appellant and the respondent.

5.The deceased a bachelor was aged about 42 years who met with an accident while loading the building rubbish materials on 30.11.2014. The Tribunal has considered a notional income of Rs.6,500/- perhaps based on the decision of the Hon'ble Supreme Court in Syed Sadiq Vs. United India Insurance Co. Ltd., (2014) 2 SCC 735.

6.Though the deceased was a load man, I am of the view the income taken for a vegetable vendor in the year 2008 cannot be considered as the notional income of the deceased in the year 2014. Therefore, I am inclined to considered the notional income of the deceased Rs.10,000 as has been stated in the claim statement filed by the appellant before the Tribunal. Accordingly, the compensation to be awarded to the appellants/claimants towards loss of dependency is re-quantified as follows:-



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Heads and Calculation	Amount
Loss of dependency:-	
Notional Income : Rs. 10,000/-	
Add: Future Prospects at 25 % (10,000 x 25/100) : Rs. 2,500/-	

: Rs. 12,500/-	
Less: 50% Personal Expenses (12500x50% = 6250) : Rs. 6,250/-	

: Rs. 6,250/-	
Annual Contribution to the family (6,250 x 12) : Rs. 75,000/-	Rs.10,50,000/-
Multiplier 14 (75000 x 14) : Rs.10,50,000/-	
Towards Loss of Estate	Rs. 15,000/-
Funeral Expenses	Rs. 15,000/-
Transport Charges	Rs. 12,500/-
Loss of parental consortium for the 1 st appellant *as per the decision of the Hon'ble Supreme Court in Magma Insurance Company Limited Vs Nanuram @ Chuhuram and others, (2018) 18 SCC 130	Rs. 40,000/-
Loss of Love and affection for the 2 nd to 6 th appellants 20,000 X 5	Rs. 1,00,000/-
Total	Rs.12,32,500/-

7.Considering the fact, the other deceased are also stated to be living with the mother of the deceased at the time of the death of the deceased at Door No.21/247 Saminathan Street, Vettuvankani, Chenani - 600 115. This Court is inclined to award a sum of Rs.20,000 each to the other siblings namely Appellant Nos.2 to 6.

8.The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.12,32,500/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit,



less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. On such deposit being made by the 2nd respondent/Insurance Company, the appellants/claimants are permitted to withdraw their shares together with interest accrued thereon, less any amount already withdrawn in the same proportion as was ordered by the Tribunal.

10. This Civil Miscellaneous Appeal stands partly allowed with the above observations. No costs.

Sd/-
Assistant Registrar(P & A)

//True Copy//

Sub Assistant Registrar

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To:

1. The Motor Accidents Claims Tribunal,
Chief Judge at Small Causes Court, Chennai.
2. The Section Officer,
Vernacular Section,
Madras High Court.

C.M.A.No.2491 of 2019

MG(CO)
CS/29/10/2021