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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.3747 OF 2019

(Through Video Conferencing)

1. Padma

Renu (Died)

2. Rajamani

... Appellants/Appellants

.Vs.

1. Sivasankar

2. The Divisional Manager,  
United India Insurance Company Limited,  
Situated at No.46,  
Katpadi Salai, Vellore.

... Respondents/Respondents

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Order and Decree dated 19.12.2017 and made in M.A.C.T.O.P.No.229 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Appellants : M/s.A.Subadra

For First Respondent : No appearance

For Second Respondent : Mr.J.Chandran

J U D G M E N T

The claimants are the appellants in this Civil Miscellaneous Appeal. This appeal has been filed against the impugned Judgment and Decree dated 19.12.2017 passed by the Motor Accident Claims Tribunal (Special Sub Court, Tiruvannamalai), Tiruvannamalai in M.C.O.P.No.229 of 2017.



2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.13,32,668/- as compensation together with interest at 7.5% per annum from the date of claim petition till the date of deposit along with costs to the appellants. Aggrieved by the same, the appellants pray for enhancement of compensation in this appeal.

3. The brief facts of the case are that on 15.04.2012 at about 3.15 p.m., near Junction road at Ammapalayam in Arni to Vellore road, the deceased Venkatesan was travelling as a pillion rider of TVS Star City two wheeler bearing registration number TN-25-T-7209 belonging to the first respondent. The said two wheeler was insured with the second respondent Insurance Company. The first respondent allegedly rode the two wheeler in a rash and negligent manner and lost control and hit another two wheeler (Yamaha) from the opposite direction, as a result of which, they sustained grievous injuries.

4. They were admitted in the Government Medical College Hospital, Vellore. Thereafter, the deceased Venkatesan was taken to the Sri Ramachandra Medical College and Hospital, Chennai on the same day. However, the deceased Venkatesan died on the same day. Therefore, the appellants filed claim petition for compensation of Rs.20,00,000/-. The Tribunal has awarded only the aforesaid compensation of Rs.13,32,668/-. They have therefore filed this appeal for enhancement of compensation.

5. In this appeal, the learned counsel for the appellants submits that the Tribunal has considered very low income of Rs.6,500/- per month of the deceased to award the above compensation even though the accident is of the year 2012.

6. Per contra, the learned counsel for the second respondent submits that the award amount may be confirmed. He further submits that the second respondent Insurance Company has also questioned the compensation awarded by the Tribunal in another appeal and that appeal was dismissed. However, he is unable to confirm the same. Therefore, the award amount may be confirmed.

7. Heard the learned counsel for the appellants and the learned counsel for the second respondent. I have perused the impugned Judgment and Decree and the evidence on record.

8. The Tribunal has considered the notional income of the deceased as Rs.6,500/- per month to award compensation towards loss of income. It appears to be very low. In Syed Sadiq Vs. United India Insurance Co.Ltd., (2014) 2 SCC 735, the Hon'ble Supreme Court has considered the notional income of a vegetable vendor as Rs.6,500/- for the accident in the year 2008. Considering the year of the accident was 2012, I am inclined to



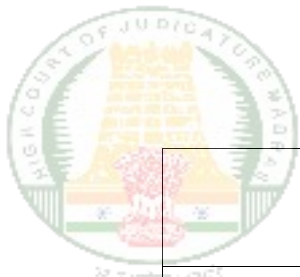
consider the notional income of the deceased as Rs.10,000/- per month. On the aforesaid amount, there shall be 40% future prospects as per the decision of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680.

9. The Tribunal has adopted multiplier of 17 even though as per the claim petition the age of the deceased was 32 years at the time of the accident. The correct multiplier to be adopted is 16 considering the age of the deceased.

10. The other heads of the compensation appear to be reasonable in light of the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12, National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 and Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130.

11. Accordingly, the compensation of Rs.13,32,668/- awarded by the Tribunal is enhanced to Rs.18,87,000/- as follows:-

| Heads and Calculation                                            | Re-quantified amount of this Court |
|------------------------------------------------------------------|------------------------------------|
| Loss of dependency:-                                             |                                    |
| Monthly Income of the deceased - Rs.10,000/-                     |                                    |
| Annual Income (10,000 x 12) : Rs. 1,20,000/-                     |                                    |
| Add: Future prospectus 40%<br>(1,20,000 x 40/100) : Rs. 48,000/- |                                    |
| -----                                                            |                                    |
| : Rs. 1,68,000/-                                                 |                                    |
| Less: Personal Expenses 1/3<br>( 1,68,000 x 1/3) : Rs. 56,000/-  |                                    |
| -----                                                            |                                    |
| Annual contribution to the family : Rs. 1,12,000/-               |                                    |
| Multiplier - 16 ( 1,12,000 x 16) : Rs.17,92,000/-                | Rs.17,92,000/-                     |



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| Heads and Calculation                              | Re-quantified amount of this Court |
|----------------------------------------------------|------------------------------------|
| Loss of consortium to the first appellant          | Rs. 40,000/-                       |
| Loss of Estate                                     | Rs. 15,000/-                       |
| Funeral Expenses                                   | Rs. 15,000/-                       |
| Loss of love and affection to the second appellant | Rs. 25,000/-                       |
| Total                                              | Rs.18,87,000/-                     |

12. Thus, the second respondent Insurance Company is directed to deposit a sum of Rs.18,87,000/- together with interest at 7.5% per annum from the date of claim petition till the deposit along with costs in the payment method ordered by the Tribunal, less any amount already deposited, within a period of eight weeks from the date of receipt of a copy of this Judgment.

13. On such deposit, the appellants are permitted to withdraw their share in the same proportion ordered by the Tribunal, less any amount already withdrawn, by filing suitable application before the Tribunal.

14. Accordingly, this Civil Miscellaneous Petition is closed. No cost.

Sd/-  
Deputy Registrar (P & A)

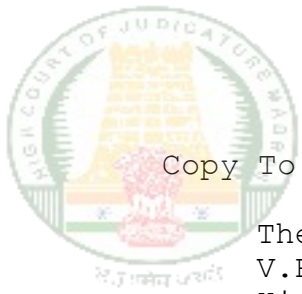
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Sub Assistant Registrar

jen

To

The Motor Accident Claims Tribunal,  
The Special Subordinate Judge,  
Tiruvannamalai.



Copy To:-

The Section Officer,  
V.R. Section,  
High Court, Madras.

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+1cc to Mr.M.Malar, Advocate, S.R.No.25457

+1cc to Mr.J.Chandran, Advocate, S.R.No.25961

C.M.A.NO.3747 OF 2019

AJS (CO)

PBS/18/11/2021