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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.4145 of 2019

and

CMP.No.23429 of 2019

(Through Video Conferencing)

The Branch Manager,
United India Insurance Company Limited,
Micro Office, No.74 A-2,
Sathya Medicals Complex, Vaniyambadi Road,
Thirupathur,
Vellore District, Tamil Nadu - 635 652.
C/o.The Divisional Manager,
United India Insurance Company Limited,
Durga Bhavani Square, Opposite Railway Station,
Denkanikottai Road, Hosur - 635 109.

... Appellant/2nd Respondents

Vs.

1.Rajappa
2.Sarojamma
3.Anurathna
4.Minor Amrutha Varshini
Rep by her mother/next friend
Anurathna

... Respondents 1 to 4 / Petitioners

5.G.Seenivasan
(5th respondent was set
exparte before the Tribunal)

... 5th Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 08.01.2019 made in M.C.O.P.No.402 of 2017 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Hosur.

For Appellant : Mr.S.Arunkumar



For R1 to R4 : Mr.M.Sivakumar

For R5 : No Appearance

JUDGMENT

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The appellant Insurance company is aggrieved by the impugned Judgment and Decree dated 08.01.2019 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Hosur in M.C.O.P.No.402 of 2017.

2. By the impugned judgment and decree, the Tribunal has awarded a sum of Rs.36,92,100/- as compensation together with interest at 7.5% per annum, from the date of the claim petition, till the date of deposit, payable by the appellant Insurance Company to the 1st to 4th respondents/claimants. They are the father, mother, wife and the daughter of the deceased Manjunath.

3. The break up of the amount awarded by the Tribunal is detailed below:-

S.No.	Heads of Compensation	Amounts awarded by the Tribunal
1.	Loss of dependency	Rs.25,51,500/-
2.	Loss of Love and Affection	Rs. 30,000/-
3.	Transport expenses	Rs. 10,000/-
4.	Funeral expenses	Rs. 15,000/-
5.	Loss of Estate	Rs. 15,000/-
6.	Loss of consortium	Rs. 50,000/-
7.	Future prospect	Rs.10,20,600 /-
	To tal	Rs.36,92,100 /-

4. The brief facts of the case are that the deceased Manjunath met with an accident on 24.02.2017, while he was riding as a pillion rider in Honda Activa Scooter bearing Reg.No.TN.70.S.4801 and sustained multiple grievous injuries and died in the hospital.

5. The learned counsel for the appellant / Insurance company submits that the Tribunal was not justified in unilaterally revising the income of the deceased from



Rs.11,000/- to Rs.18,000/- based on the income tax returns for the assessment years 2013-2014 wide Ex.P.24.

6. Per contra, the learned counsel for the 1st to 4th respondents submitted that the amounts awarded by the Tribunal under different heads are proper. He submits that the impugned order is well reasoned and requires no interference. Hence he prays for dismissal of the present appeal.

7. I have considered the arguments advanced by the learned counsel for the appellant and the 1st to 4th respondents and I have also perused the evidence on record and the impugned judgment and decree passed by the Tribunal.

8. The Tribunal was not justified in unilaterally revising the notional income of the deceased to Rs.18,900/- after observing that the notional income of the deceased was only Rs.11,000/-. It is clear that the Tribunal had committed error while passing the impugned judgment and decree.

9. The Tribunal has awarded Rs.10,20,600/- towards future prospects separately apart from awarding a sum of Rs.25,51,500/- towards loss of dependency. Normally, the compensation awarded towards loss of dependency is calculated along with 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.

10. However, no useful purpose will be served by remitting the case back to the Court for mere recomputation of the amount of compensation to be awarded to the claimants.

11. Under these circumstances, compensation is re-computed in this appeal. This Court is inclined to consider a notional income of the deceased as Rs.15,000/- per month. Therefore, the amount awarded towards loss of dependency and future prospects are re-quantified as follows:-

Loss of dependency

i) Monthly income of the deceased	:	Rs.15,000/-
ii) Add: Future prospects @ 40%	:	Rs. 6,000/-

	:	Rs.21,000/-
iii) Less: Personal expenses @ 25%	:	Rs. 5,250/-

		Rs.15,750/-

iv) Annual income of the deceased		
(Rs.15,750 x 12)	:	Rs.1,89,000/-



v) Age 36

Multiplier 15 (Rs.1,89,000 x 15) : Rs.28,35,000/-

12. Accordingly, the compensation awarded by the Tribunal is recomputed as follows:-

Sl. No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	Loss of dependency	Rs.25,51,500/-	Rs.28,35,000/-	enhanced
2	Loss of Love and Affection to the respondent Nos.1,2 & 4	Rs.30,000/-	Rs.1,20,000/-	enhanced
3	Transport expenses	Rs. 10,000/-	Rs. 10,000/-	confirmed
4	Funeral expenses	Rs. 15,000/-	Rs. 15,000/-	confirmed
5	Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	confirmed
6	Loss of consortium for the respondent 3 rd	Rs.50,000/-	Rs. 40,000/-	reduced
7	Future prospect	Rs.10,20,600/-	Nil	deleted
Total		Rs.36,92,100/-	Rs.30,35,000/-	Reduced by a sum of Rs.6,57,100 /

13. Therefore, the appellant-Insurance Company is directed to deposit the re-quantified amount of compensation of Rs.30,35,000/- together with interest at 7.5% from the date of claim petition till the date of such deposit, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

14. On such deposit, the 1st to 3rd respondents are permitted to withdraw their respective shares together with interest thereon and proportionate costs as was directed by the Tribunal, less any amount already withdrawn, by filing suitable applications before the Tribunal. The 4th respondent was aged about 2 years at the time of filing of the claim petition in



2017. Since the 4th respondent would have attained the age of majority, she is permitted to file appropriate application before the Tribunal for recording the age of majority to withdraw her share.

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15. Accordingly, this Civil Miscellaneous Appeal is disposed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

drl

To:

1. The Motor Accidents Claims Tribunal,
Additional District Judge, Hosur.
2. The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.25086
+1cc to Mr.C. Prabakaran, Advocate, S.R.No.25208

C.M.A.No.4145 of 2019 and
CMP.No.23429 of 2019

RLD (CO)
CT/27/12/2021