



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A.NO.3426 OF 2021

AND

C.M.P.NO.19775 OF 2021

Shriram General Insurance Co. Limited.,
5F, 1st Floor, Sachin Plaza
Reddiyar Block No.1,
Salem Post and District.

... Appellant/2nd Respondent

.Vs.

- | | |
|--------------------|---|
| 1. Murali | ... 1 st Respondent/1 st Petitioner |
| 2. Minor Yogashree | ... 2 nd Respondent/2 nd Petitioner |
| 3. Minor Poornima | ... 3 rd Respondent/3 rd Petitioner |
| 4. Minor Shivani | ... 4 th Respondent/4 th Petitioner |

(2nd to 4th Respondents being
Minors are represented by their
Next Friend/Father Murali)

- | | |
|------------------|---|
| 5. Karikalasolan | ... 5 th Respondent/1 st Respondent |
|------------------|---|

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 8th day of March, 2021, made in M.C.O.P.No.192 of 2018, on the file of Motor Accident Claims Tribunal (Special District Court), Dharmapuri.

For Appellant : Mr.S.Dhakshnamoorthy

For RR 1 to 4 : Mr.Amar D. Pandya



Admit.



8. The first petitioner was permitted to withdraw 50% of his share with accrued interest and cost immediately. The remaining amount was directed to be invested in a Fixed Deposit in a nationalised bank for a period of three years and the first petitioner was permitted to withdraw the interest once in six months. The shares allotted to the minors were directed to be kept in deposit till they attain majority and the first petitioner was permitted to withdraw the interest once in six months for maintenance of the minors.

9. Mr.S.Dhakshnamoorthy, learned counsel appearing for the Insurance Company would submit that the Tribunal erred in adopting 50% for future prospectus. According to him, as per the Judgment of the Hon'ble Supreme Court in (2017) 16 SCC 680 [National Insurance Company Ltd., Vs. Pranay Sethi & Ors.], the future prospects allowable for 22 years old person working in a non Governmental organisation is only 40% and not 50%. The learned counsel has no quarrel either with the income fixed or the quantum of conventional damages awarded.

10. Mr.Amar D. Pandya, learned counsel appearing for the claimants would also agree that the quantum of future prospects must be only 40% and not 50%.

11. In view of the submission of the learned counsel appearing for the parties, the compensation awarded for loss of dependency is worked out taking future prospects at 40%.

Monthly income fixed at Rs.10,000/- add 40% towards future prospectus = Rs.14,000/- (10,000 + 4000)

deduct $1/4^{\text{th}}$ for personal expenses = Rs.10,500/- (14,000 - 3,500)

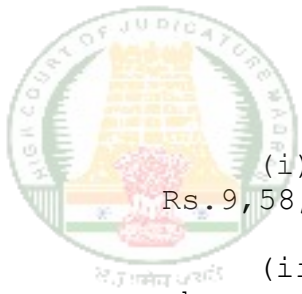
Annual loss of dependency = 1,26,000 (10,500 x 12)

Loss of dependency (multiplier '18') = Rs.22,68,000/- (1,26,000 x 18)

The conventional damages of Rs.1,90,000/- awarded by the Tribunal is confirmed.

Thus the total compensation payable would be Rs.24,58,000/-. The interest and cost awarded by the Tribunal are confirmed.

12. Coming to the apportionment, I am of the opinion that this reduction should not affect the minors' shares. Thus the compensation awarded is apportioned as follows:-



(i) The first petitioner/husband is allotted a sum of Rs.9,58,000/- with interest and costs awarded by the Tribunal.

(ii) The minors will get a sum of Rs.5,00,000/- each. The shares of the minors are directed to be deposited in an interest bearing fixed deposit in any one of the nationalised banks till they attain majority and the first petitioner is permitted to withdraw the interest once in six months for maintenance of the minors. The first petitioner is permitted to withdraw the entire compensation that has been apportioned to him along with accrued interest and costs.

13. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vsg

To

The Special District Judge,
The Motor Accident Claims Tribunal,
Dharmapuri.

Copy To:-

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

+1cc to Mr.M.Selvam, Advocate, S.R.No.6547

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AD(CO)
PBS/05/05/2022