



IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 28.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.Nos.2239 of 2016 & 28 of 2017
and
C.M.P.No.15870 of 2016

C.M.A.No.2239 of 2016

M/s Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 46, Whites Road, Rayapettah,
Chennai - 600 014. ... Appellant/Respondent-2

Vs.

1.Bhagavathi

2.Minor Thiruchitrambalam
(Rep by his Natural guardian and
next friend Mother Bhagavathi)

3.Meenakshi ... Respondents 1 to 3/Petitioners

4.R.Sri Devi ... 4th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to set aside the decree and judgment dated 29.04.2016 made in MCOP No.310 of 2013 on the file of Motor Accident Claims Tribunal (Principal District Court), Perambalur.

For Appellant :Mr.K.Vinod

For Respondents :Mr.V.Raghupathi for R1 to R3
R4-left

C.M.A.No.28 of 2017

1.Bhagavathi
2.Minor Thiruchitrambalam
(Minor rep by his Natural guardian and
next friend Mother Bhagavathi)



3.Meenakshi

... Appellants/Petitioners

Vs.

1.R.Sri Devi

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

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 29.04.2016 made in MCOP No.310 of 2013 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Perambalur.

For Appellant :Mr.V.Raghupathi

For Respondents :Mr.K.Vinod for R2
R.1- left

COMMON JUDGMENT

(Common Judgment of the Court was made by K.KALYANASUNDARAM.,J)

C.M.A.No.2239 of 2016 has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal, (Principal District Court), Perambalur in MCOP No.310 of 2013. The claimants in the said Original Petition have come up with C.M.A.No.28 of 2017 seeking enhancement of compensation. Since both the appeals arise out of the same order passed in the MCOP dated 29.04.2016, both heard together and disposed of by its common order. For the purpose of clarity, the parties are referred to as per their rank before the Tribunal.

2.The facts of the case in nutshell:-

On 16.03.2013, at about 3.40 p.m, the deceased Sivasubramani was riding a two-wheeler bearing Reg.No.TN-45-AE-2170 on Tanjore-Trichy NH 67 main road along with one Srikanthan as pillion rider and when they were nearing 'B' Sector Thirumana Mandapam, a Maruti Omni Car bearing Reg.TN-45-AY-7474 belonging to the first respondent and insured with the second respondent driven by its driver in a rash and negligent manner, dashed against the two-wheeler. In the impact, both the rider and the



million rider sustained grievous injuries and the rider Sivasubramani died on 17.03.2013. Alleging that the accident had occurred only due to the rash and negligent driving of the driver of the Maruti Omni Car, the wife, minor son and mother of the deceased filed the claim petition. Though they claimed compensation of Rs.50,00,000/-, the Tribunal has awarded Rs.20,87,304/-. Challenging the said award, the Insurance Company has filed an appeal on the ground that the award is on the higher side and the claimants preferred an appeal to enhance the compensation as stated supra.

3.This appeal has been filed only challenging the quantum, hence, the other issues need not be dealt with herein.

4.The learned counsel appearing for the Insurance Company would submit that the Tribunal has erred in fixing the income of the deceased at Rs.18,800/- per month, hence, he prayed for reduction of compensation.

5.The learned counsel appearing for the claimants would contend that since the amount awarded by the Tribunal is meager in all the heads, the claimants are entitled for higher compensation. He would further contend that at the time of accident, the deceased was 49 years and working as Accountant in a private concern and earning Rs.25,000/- per month. Though the Tribunal fixed the monthly income of the deceased as Rs.18,800/-, no addition has been made for future prospects. Hence, the claimants seek enhancement of compensation.

6.This Court carefully considered the rival submissions and perused the materials available on record.

7. In the case on hand, the Tribunal has taken monthly income of the deceased as Rs.18,800/- based on the income tax returns which were marked as Exs.P.25 to 27 relating to the financial years 2010-2011, 2011-2012 and 2012-2013. The Tribunal applied multiplier '13' and also deducted $\frac{1}{3}$ rd for his personal expenses. It is the grievance of the claimants that no addition has been made for future prospects. Considering the age of the deceased as 49 years, 25% is added towards future prospects following the decision of the Hon'ble Apex Court in the case of Pranay Sethi and total income comes to Rs.23,500/- (18800 + 4700). From which, $\frac{1}{3}$ rd is deducted for his personal expenses and the contribution comes to Rs.15,700/- and by applying multiplier '13', the loss of income is assessed as Rs.24,49,200/- (15700x12x13). As per the decision of the Hon'ble Apex Court in the case of Magma General Insurance Co.



Ltd., vs. Nanu Ram and others reported in 2018(1) TN MAC 452 (SC), the claimants are entitled to Rs.40,000/- each towards parental and filial consortium, which comes to Rs.1,20,000/-. Hence, the amount of Rs.50,000/- awarded towards loss of consortium is enhanced to Rs.1,20,000/-. The amount of Rs.20,000/- awarded towards funeral expenses is reduced to Rs.15,000/-. This Court awards Rs.15,000/- towards loss of estate. The amount awarded towards loss of love and affection, transportation and for damage to cloth are set aside. The rate of interest fixed by the Tribunal as 7.5% is also confirmed. Accordingly, the compensation awarded by the Tribunal to the claimants is re-quantified as follows:-

Heads	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Loss of dependency	19,55,304/-	24,49,200/-	enhanced
Loss of love and affection	50,000/-	Nil	set aside
Loss of consortium	50,000/-	1,20,000/-	enhanced
Funeral expenses	20,000/-	15,000/-	reduced
Loss of estate	Nil	15,000/-	granted
Transportation	10,000/-	Nil	set aside
Damage to cloth	2,000/-	Nil	set aside
Total	20,87,304/-	25,99,200/-	Enhanced
Rounded off		26,00,000/-	

8. In such view of the matter, CMA No.28 of 2017 filed by the claimants is partly allowed and CMA No.2239 of 2016 filed by the Insurance Company is dismissed. The award amount of Rs.20,87,304/- is enhanced to Rs.26,00,000/-. Out of the said amount, the first claimant/wife of the deceased is entitled to Rs.10,00,000/-; the second claimant/minor son of the deceased is entitled to Rs.10,00,000/- and third claimant/mother of the deceased is entitled to Rs.6,00,000/- together with proportionate interest and costs. The Insurance Company is directed to deposit the modified award amount of Rs.26,00,000/- with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the



major claimants are permitted to withdraw their share after filing a memo, along with a copy of this order, less the amount if already withdrawn. The Tribunal is directed to deposit the share of the minor claimant in any one of the Nationalised Bank till he attains majority and the first claimant being mother and natural guardian is permitted to withdraw the interest once in six months directly from the Bank. The minor claimant/Thiruchitrambalam on attaining majority is permitted to withdraw his share. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

skn
To

Motor Accident Claims Tribunal,
(Principal District Court), Perambalur.

Copy to

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

+1cc to Mr.Elveera Ravindran, Advocate Sr.13155
+2cc to Mr.V.Raghupathi, Advocate Sr.12965, 12963

C.M.A.Nos.2239 of 2016 & 28 of 2017
and
C.M.P.No.15870 of 2016

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srg 20/04/2022