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C.M.A.No.2499 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.2499 of 2022

United India Insurance Company Limited,
Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai 600 006

.. Appellant

-Vs.-

1. Muniamma
2. Kannan
3. M/s.Delex Cargo India Pvt. Ltd.,
New No.9, Old No.5, 4th Floor,
Erabalu Chetty Street,
Chennai 600 006

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and decree dated 15.10.2019 made in M.C.O.P.No.3245 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub Court-2)/Court of Small Causes), Chennai.

For Appellant ... Mr.D.Bhaskaran

For Respondents... Ms.Ramya V.Rao

1 and 2



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JUDGMENT

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The Insurance Company has filed the above appeal questioning the quantum of compensation granted by the Motor Accident Claims Tribunal (Special Sub Court-2) / Court of Small Causes, Chennai in M.C.O.P.No.3245 of 2016.

2. Since the challenge is only to the quantum, there is no necessity to extract the facts of the case. Suffice it to state that in the accident that had taken place on 10.01.2016, one minor Devi aged about 10 years and studying in III standard had died. The Tribunal had taken a notional income of Rs.60,000/- per annum and after applying multiplier of 15 had arrived at a compensation of a sum of Rs.9,00,000/- towards the pecuniary benefits and a sum of Rs.1,00,000/- towards the conventional heads, in all it granted a sum of Rs.10,10,000/- with interest at 7.5% per annum. The Insurance Company is aggrieved by the fact that the annual income taken by the Tribunal is on the higher side and further, the entire annual income has been taken for computation with no deduction being made towards personal expenses.



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3. Heard the learned counsel on either side and perused the materials available on record.

4. The appellant-Insurance Company is rightly aggrieved by the fact that the annual income has been taken in toto and compensation calculated by adopting multiplier of 15. Therefore, the Award under the head of “loss of income” is modified as follows:

A sum of Rs.5,000/- is taken as monthly notional income, to which 40% is added towards future prospects. Therefore, the monthly income would work out to a sum of Rs.7,000/- and the annual income would be a sum of Rs.84,000/-. The insured is a minor child, therefore, 50% is to be deducted towards personal expenses. Therefore, the annual income would come to a sum of Rs.42,000/- per annum. To this, multiplier of 15 is to be adopted and therefore, the loss of income would be a sum of Rs.6,30,000/-.

The compensation granted under the other heads are reasonable and does not require any modification. Therefore, the Compensation awarded by the Tribunal is reworked as below:



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S.No.	Description	Amount by the Tribunal in Rs	Amount awarded by this Court (in Rs.)
1	Loss of income	9,00,000	6,30,000
2	Filial consortium	80,000	80,000
3	Loss of Estate	15,000	15,000
4	Funeral expenses	15,000	15,000
	TOTAL	10,10,000	7,40,000

5. This appeal is partly allowed and the impugned Award of the Tribunal is modified, reducing the compensation amount from **Rs.10,10,000.00** to **Rs.7,40,000.00**. The appellant-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.3245 of 2016 along with interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The said amount shall be apportioned amongst the claimants as per the Award of the Tribunal. On such deposit being made, the claimants are permitted to withdraw the award amount now determined by this Court, along with accrued proportionate interest and costs as awarded by the Tribunal, less, the amount, if any



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already withdrawn, by filing necessary application before the Tribunal. In other respects, the Award of the Tribunal is hereby confirmed. The Insurance Company is permitted to withdraw any excess amount, if any deposited by them. There shall be no order as to costs in the present appeal. Consequently, connected miscellaneous petition is closed.

18.11.2022

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To

1. The Motor Accident Claims Tribunal
(Special Sub Court-2)/Court of Small Causes), Chennai.
2. The Section Officer,V.R.Section, High Court, Madras.



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P.T.ASHA, J.,

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