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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :29.03.2022

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

C.M.A.No.1331 of 2021 &
C.M.P.No.6722 of 2021

Cholamandalam MS General Insurance Company Limited,
3rd Floor, No.443, Megunam Towers,
Dr.Nanjappa Raod,
Gandhipuram, Coimbatore.

...1st Appellant/3rd Respondent

vs.

1. Renuka Devi
2. Sivaprasath (minor)
(2nd respondent minor rep. by the first respondent/Mother)
3. Ramakrishnan
4. Visalatchi ...Respondents 1 to 4/Petitioners 1 to 4
5. Prabakaran
6. Muthusamy ...5&6Respondents/Respondents 1&2

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree made in MCOP.No.1587 of 2016 dated 30.08.2019 on the file of the Motor Accident Claims Tribunal, III Additional District & Sessions Court, Coimbatore.

For Appellant : Mr.M.B.Raghavan
For R1 to R4 : Mr.K.Selvakumar
For R5 : No appearance
For R6 : Mr.A.Sathish Kumar

JUDGMENT

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

Challenging the award passed in M.C.O.P.No.1587 of 2016 dated 30.08.2019 by the Motor Accident Claims Tribunal (III Additional District Court), Coimbatore, the present appeal has

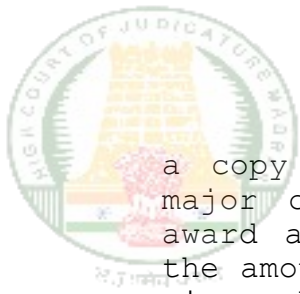


10. This appeal has been filed, only challenging the quantum. Therefore, this Court confirms the decision reached by the Tribunal on the aspect of negligence and liability.

11. The Tribunal fixed the income of the deceased as Rs.25,920/- on the basis of the income tax return-Ex.P.17. Perusal of the evidence of P.W.1 and Ex.P.18 would show that even after the death of the deceased, the claimants are running the business. Hence, the income fixed by the Tribunal cannot be sustained. Therefore, it would be appropriate to fix the income at Rs.18,000/- and by adding 10 % towards future prospectus, the total monthly income of the deceased would be Rs.19,800/-. Deducting 1/4th towards personal expenses, the amount under the head 'loss of dependency' would be Rs.19,60,200/- (Rs.14850/- x 12 x 10 % x 3/4). As per the decision of the Hon'ble Apex Court in the case of Magma General Insurance Company Vs. Nanuram @ Chuhru Ram and Others, the claimants are entitled for Rs.40,000/- each for loss of consortium. Hence, the amount awarded under the head 'Consortium' is enhanced to Rs.1,60,000/-. Amounts awarded under the heads 'Loss of estate' and 'Funeral expenses' are confirmed. Thus the amount awarded by the Tribunal is recalculated as follows: -

Sl.No.	Particulars	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.	Enhanced/ granted/ confirmed/ reduced/ set aside
1	Loss of dependency	28,22,688/-	19,60,200/-	Reduced
2	Loss of estate	15,000/-	15,000/-	Confirmed
3	Consortium	40,000/-	1,60,000/-	Enhanced
4	Funeral Expenses	15,000/-	15,000/-	Confirmed
	Total	28,92,688/-	21,50,200/-	Reduced

12. In view of the above, this Civil Miscellaneous Appeal is partly allowed and the amount of Rs.28,92,688/- is reduced to Rs.21,50,000/-. Out of the total award amount the 1st claimant/ wife of the deceased is entitled for a sum of Rs.10,50,000/- and minor child/2nd claimant is entitled for a sum of Rs.5,00,000/- and the 3rd and 4th claimants/parents of the deceased is entitled for Rs.3,00,000/- each. The rate of interest is 7.5% per annum from the date of claim petition till the date of deposit. The appellant/Insurance Company is directed to deposit the award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of



a copy of this judgment. On such deposit is being made, the major claimants are permitted to withdraw their share of the award amount along with proportionate interest and costs, less the amount already withdrawn, if any. In so far as, share of the minor child, the Tribunal is directed to deposit the same in any of the nationalized bank in a fixed deposit scheme, till the minor attains majority. Till such time, the interest accrued thereon shall be withdrawn by the mother of the minor children/1st claimant, once in three months, directly from the Bank.

13. In fine, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
III Additional District and Sessions Court,
Coimbatore.
2. The Section Officer,
V.R.Section,
High Court of Madras.

+1cc to M/s.P.Veenasuresh, Advocate, S.R.No.21627

+1cc to Mr.A.Sathishkumar, Advocate, S.R.No.21636

C.M.A.No.1331 of 2021 &
CMP.No.6722 of 2021

GSM(CO)
RGA(01/06/2022)