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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA.NO.3497 OF 2021

AND

CMP.NO.20209 OF 2021

The Branch Manager,
Reliance General Insurance Company Limited,
Branch Office,
Sree Lakshmi Complex,
1st Floor, Omalur Main Road,
Bharathi Street, Swarnapuri,
Salem - 636 004.

...Appellant/
2nd Respondent

Vs.

1.Vanitha
2.Arulmuthuraman
3.Jayakanth

... Respondents 1 to 3/Petitioners

4.L.Sureshbabu

.. 4th Respondent/1st Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 03.12.2020 made in MCOP.No.673 of 2019 on the file of the Motor Accidents Claims Tribunal, Special District Court, For Motor Accident Claims Cases Krishnagiri.

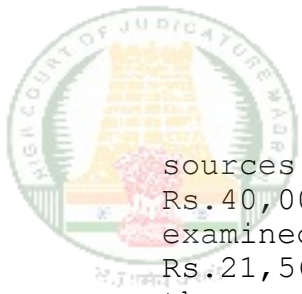
For Appellant : Mr.M.B.Raghavan

For Respondents : Mr.S.P.Yuvaraj

J U D G M E N T

This appeal is by the Insurance Company, on the quantum of compensation alone.

2.The deceased was a ex-servicemen. According to the claimants, he was earning a sum of Rs.50,000/- per month, that is, Rs.20,000/- as an Ex-army driver and Rs.30,000/- from other



sources. The claimants sought for a compensation of Rs.40,00,000/-. Before the Tribunal, the 1st claimant, who was examined as PW1 would admit that she is receiving a pension of Rs.21,560/- after the death of her husband. Therefore, whatever the pension the deceased was drawing, is now being paid to the wife as such, there is no loss of pension. The loss may be on the other heads. The Tribunal, however, took the loss of pension as the sole criteria and worked out the total loss of dependency at Rs.17,07,480/-.

3.Mr.M.B.Raghavan, learned counsel appearing for the Insurance Company would contend that the Tribunal having held there is no loss of pension, ought not to have adopted the pension as the base for fixing the loss of dependency. It is in evidence that the deceased was earning as a driver of a lorry and was also doing cultivation in his lands. I am of the opinion that the other income, which would be the actual loss to the family could be taken as Rs.18,000/-, considering the age of the deceased and the date of the accident. If Rs.18,000/- is taken as monthly income of the deceased and if we add 10% towards future prospects, the monthly income that could be taken for fixing loss of dependency would be Rs.19,800/-. Deducting 1/3rd for personal expenses, the monthly loss of dependency would be Rs.13,200/-. Adopting the multiplier of 9, since the deceased was aged about 56 years at the time of his death the total loss of dependency would be Rs.14,25,600/-.

4.The claimants are also entitled to compensation towards loss of love and affection and consortium, which is fixed at Rs.1,20,000/- at Rs.40,000/- per claimant. The claimants are entitled to funeral expenses and loss of estate, which is fixed at Rs.40,000/-. Thus, the total compensation payable would be Rs.15,85,600/- Therefore, the award of the Tribunal is modified and the claimants would be entitled to a sum of Rs.15,85,600/- with interest at 7.5% from the date of petition till date of deposit. The compensation is apportioned as follows:-

i) The 1st respondent / wife of the deceased would be entitled to Rs.9,85,600/- with proportionate interest and entire costs.

ii) The claimants 2 and 3, who are sons of the deceased would be entitled to Rs.3,00,000/- each with proportionate interest.

5.The Insurance Company is directed to deposit the compensation as awarded, less the amount already deposited, within a period of six weeks from the date of receipt of a copy



of this order. On such deposit, the claimants are permitted to withdraw the entire amount, so deposited. In fine, this civil miscellaneous appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkn

To:-

- 1 The Motor Accidents Claims Tribunal,
Special District Court,
For Motor Accident Claims Cases Krishnagiri,
Krishnagiri.
- 2 The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.S.P.Yuvaraj, Advocate, S.R.No.3453

CMA.No.3497 of 2021
and
CMP.No.20209 of 2021

AD(CO)
PM/21/04/2022