



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2840 of 2019

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C.M.P.No.14796 of 2019

The Divisional Manager,
M/s.Reliance General Insurance Co. Ltd.,
No.29, 3rd Floor, T. Nagar,
Chennai.

...Appellant /2nd Respondent

Vs

1.Malarvizhi

...1st Respondent/1st Petitioner

2.Ettiammal

...2nd Respondent/2nd Petitioner

3.Ilayarajan

...3rd Respondent/Ist Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 24.10.2017 made in M.C.O.P.No.159 of 2014 on the file of the Motor Accidents Claims Tribunal, Sub Court, Cheyyar.

For Appellant : Mr.S.Arun Kumar

For Respondent 1 : No Appearance

For Respondent 2 : Mr.B.Jawahar

For Respondent 3 : No Appearance

JUDGEMENT

The Insurance Company has challenged the award passed by the Motor Accident Claims Tribunal (Sub Court), Cheyyar on the ground that the compensation granted is excessive.

2. The Insurance Company is particularly aggrieved by the fact that the Tribunal below has calculated future prospects at



50% and adopted a multiplier of 18 though the age of the deceased was 28 years, for which the appropriate multiplier is 17.

3. The Insurance Company is also aggrieved by the grant of Loss of Consortium of Rs.75,000/- to the 1st respondent and Rs.25,000/- towards Loss of Love and Affection to the 2nd respondent and a sum of Rs.25,000/- towards Funeral Expenses and Rs.2,500/- towards Damage to Clothing.

4. The learned counsel appearing for the respondent would submit that this Court in a similar matter adopted the ratio laid down in the Judgement in Andal and others Vs. Abhinav Kannan and others - (2019) (1) TN MAC 54 and had arrived at a notional income of Rs.12,000/-. Therefore, its his contention that the same may be adopted in the instant case as well. The Judgement in Andal and others Vs. Abhinav Kannan and others requires reconsideration. A standard sum of Rs.6,500/- has been fixed as the base income for all categories of the work force be it a Coolie, Driver, Teacher, Student etc., Therefore, the Judgement cannot be adopted as a basis for deciding all claims.

5. Considering the age of the deceased and the fact that he was working as a driver of the tanker lorry which is evident from Ex.P.13 and also taking note of the fact that he is a Graduate and an Income Tax Assessee, a notional income of Rs.9,000/- could be adopted, to which 40% could be added towards future prospects. The correct multiplier to be adopted is 17 and taking into account his age, out of this 1/3 has to be deducted towards personal expenses.

6. Therefore, the loss of income is Rs.9,000/- X 40% X 12 X 17 X 1/3 = Rs.17,13,600/-.

7. The Loss of Consortium to the 1st respondent is reduced to a sum of Rs.40,000/-. The Hon'ble Supreme Court in Magma General Insurance Co. Ltd., Vs. Nanu Ram and others - 2018 ACJ 2782, has discussed at length the various kinds of consortium and held Filial Consortium to be a right to parents. Therefore the "Filial Consortium", to the 2nd respondent is enhanced to a sum of Rs.40,000/-. Rs.15,000/-shall be awarded under the head of Loss of Estate. Funeral expenses is reworked to a sum of Rs.15,000/-. Award under the head of Damage to Clothing is deleted.

8. Consequently, the award under the various heads are modified as follows:



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Loss of Dependency	Rs.17,13,600/-
Loss of Consortium to the 1 st respondent	Rs.40,000/-
loss of Love and Affection	Rs.40,000/-
Loss of Estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Total	Rs.1823600/- (at 7.5% interest p.a)

The said amount shall be apportioned equally between the 1st and the 2nd respondent, both being the I Class legal heirs of the deceased.

9. The above said amount is payable together with interest at the rate of 7.5 % p.a, from date of claim till the payment. The Insurance Company shall deposit the balance award amount. The claimants are directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimants.

10.The Civil Miscellaneous Appeal is allowed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

The Motor Accidents Claims Tribunal,
Sub Court, Cheyyar.

+1cc to M/s.S.Selvam, Advocate Sr.18283
+1cc to M/s.S.Arunkumar, Advocate Sr.18247
+1cc to Mr.B.Jawahar, Advocate Sr.17704

C.M.A No.2840 of 2019

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