



C.M.A.No.1663 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 29.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.1663 of 2020

and

C.M.P.No.12261 of 2020

New India Assurance Company Limited,
Aswin Silks, 99/C, 3rd Floor,
Pagavathi Complex, Opp to New Bus Stand,
Perambalur.

... Appellant

vs.

1.Azhakiachozhan
2.Sivakami
3.Saravanan
4.Sangeetha

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree in M.C.O.P.No.502 of 2018 dated 12.11.2019 on the file of the Motor Accident Claims Tribunal Judge, (Sessions Judge), Perambalur.

For Appellant : Mrs.S.R.Sumathy

For Respondents : Mrs.A.Subadra [R2 to R4]
R1 – Served – No Appearance



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JUDGMENT

The Insurance Company has challenged the award passed by the Motor Accident Claims Tribunal (Sessions Judge), Perambalur in M.C.O.P.No.502 of 2018 on the ground of quantum.

2. The Tribunal has awarded a sum of Rs.47,22,000/- towards total compensation. The deceased is a Police Constable and as per Ex.P7, he was earning a total gross salary of Rs.27,977/-. The Tribunal had fixed the monthly income at Rs.23,000/-. Taking into account the age of the deceased who was 29 years, 50% has been added towards future prospects and applying a multiplier of 17, the amount under the head of loss of dependency was fixed at Rs.46,92,000/-

3. The Insurance Company aggrieved by the fact that 50% has been added towards future prospects has preferred this appeal.

4. Heard the learned counsels on either side and perused the materials on record.



5. The learned counsel for the appellant would submit that the Tribunal has erred in calculating the basic pay without taking into account the gross pay. She would concede that 50% under the head of future prospects is in excess and the same has to be calculated at 40%.

6. If the gross income and 40% future prospects is taken, the calculation would be Rs.27,977/- X 12 = Rs.3,35,724/- (Gross income). Therefore, the principal amount would be Rs.4,70,014/-. From this, Rs.3,00,000/- has to be deducted as this slab is exempt from Income Tax, then it would come to Rs.1,70,014/-. 5% has to be deducted from this amount towards tax, it would come to Rs.8,500/-. This would work out to Rs.1,61,514/-. The principal amount would come to Rs.4,61,514/- (Rs.1,61,514/- + Rs.3,00,000/-). From this, 50% is deducted towards personal expenses, it would come to Rs.2,30,757/- and applying multiplier of 17, the compensation amount under the head of loss of dependency would come to Rs.39,22,869/-. No amount has been granted under the head of loss of love and affection, Rs.40,000/- shall be granted under this head only to the



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mother. The amount granted towards funeral expenses and loss of estate remains unaltered. Therefore, the Compensation awarded by the Tribunal is reworked as below:

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>
1	Loss of Dependency	Rs.46,92,000/-	Rs.39,22,869/-
2	Love and Affection to the 1 st petitioner / Mother	NIL	Rs. 40,000/-
3	Loss of Estate	Rs. 15,000/-	Rs. 15,000/-
4	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
	TOTAL	Rs.47,22,000/-	Rs.39,92,869/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.47,22,000/- awarded by the Tribunal is hereby Reduced to a sum of **Rs.39,92,869/-**. Therefore, the appellant / Insurance Company is directed to deposit the modified amount of **Rs.39,92,869/-** to the credit of M.C.O.P.No.502 of 2018 on the file of the Motor Accident Claims Tribunal, (Sessions Judge), Perambalur,



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together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, as apportioned by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimants are directed to pay the Court fee for the **modified** 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. No costs. Consequently, connected miscellaneous petition is closed.

29.11.2022

Index : Yes/No
Speaking / Non-speaking order
ssn



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P.T.ASHA, J.,

ssn

To:

1. The Motor Accident Claims Tribunal,
Sessions Judge,
Perambalur.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

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