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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.3332 of 2019

and

C.M.P.No.19401 of 2019

The Branch Manager,
United India Insurance Co.Ltd.,
State Bank Building,
D.No.5-B11, 1st Floor,
Jageer Hussain Salai,
Rasipuram, Namakkal District.
Tamil Nadu.

... Appellant / 2nd Respondent
vs.

1.Ramavathy
2.Sheela
3.Naveen Kumar

...Respondents / 1 to 3 Petitioners

4.K.Rajendran

...4th Respondent / 1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 18.01.2019 made in M.C.O.P.No.474 of 2017 on the file of Motor Accident Claims Tribunal (Additional District Judge), Hosur.

For Appellants : Mr.Dhiraviyanathan, A.

For Respondents 1 to 3 : Mr.C.Prabakar

For 4th Respondent : Served - No Appearance

JUDGMENT

The Appellant/Insurance Company has challenged the award passed by the learned Additional District Judge, Hosur in M.C.O.P.No.474 of 2017.



2. The said claim petition has been filed by the claimants seeking compensation for the death of Venkateshappa, husband of the 1st claimant and the father of the claimants 2 and 3. The accident had occurred only on account of the negligence of the driver of the lorry, belonging to the 1st respondent and insured with the 2nd respondent. The 1st respondent had remained exparte and only the 2nd respondent had contested the claim, challenging the claim petition on the ground that there was no negligence on the part of the driver of the lorry and it was the deceased Venkateshappa who had fault.

3. The Tribunal below after considering the evidence on record has passed the award for a sum of Rs.17,90,000/-. The Tribunal has taken notional income of Rs.12,000/- and added a multiplier of 14 and after adding 25% towards future prospects and deducting 1/3rd towards personal expenses of the deceased, the Tribunal had arrived at a sum of Rs.13,44,000/- towards loss of dependency.

4. Heard the learned counsels on either side.

5. From the arguments of the learned counsel for the appellant it appears that the notional income arrived at is slightly on the higher side and that multiplier adopted by the Tribunal as 14 was totally incorrect. As the deceased was aged 47 years, the proper multiplier was 13 and the notional income has been rightly arrived.

6. Considering the fact that though the claimants have let in evidence to show the income of the deceased, however, the learned counsel for the appellant is right in contending that the multiplier that has been adopted by the Tribunal is wrong and it is only 13, that has to be adopted. The loss of contribution to the family is now reworked as Rs.96,000/- x 13 = 12,48,000/-. In all other aspects the award of the Tribunal is confirmed. The compensation is therefore reworked as follows:

S.No.	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Loss of Dependency	13,44,000/-	12,48,000/-	Reduced
2	Loss of Love and Affection	30,000/-	30,000/-	Confirmed
3	Transportation	10,000/-	10,000/-	Confirmed



S.No.	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
4	Funeral Expenses	15,000/-	15,000/-	Confirmed
5	Loss of Estate	15,000/-	15,000/-	Confirmed
6	Loss of Consortium	40,000/-	40,000/-	Confirmed
7	Loss of Future Prospects	3,36,000/-	3,12,000/-	Reduced
	TOTAL	17,90,000/-	16,70,000/-	Reduced by Rs.1,20,000 /-

7. Therefore, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.17,90,000/- awarded by the Tribunal is hereby reduced to a sum of Rs.16,70,000/- together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The Insurance Company is directed to deposit the said amount Rs.16,70,000/- to the credit of M.C.O.P.No.474 of 2017 together with interest @ 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 Judgement. On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court, along with interest and costs, as apportioned by the Tribunal, after adjusting the amount if any already withdrawn. The Insurance Company is permitted to withdraw any excess amount deposited by them. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

ssn

To

1. The Motor Accident Claims Tribunal
(Additional District Judge),
Hosur.



2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

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+1cc to Mr.C.Prabakaran, Advocate, S.R.No.16384

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and
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NSK 13/04/2022