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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA NO.2721 OF 2021

C.Rajalakshmi

... Appellant/
Petitioner

Vs

1. C.Saravanan
2. The New India Assurance Company Limited.,
Motor Third Party Claims Hub,
No.233, Bombay Mutual Building,
6th Floor, N.S.C., Bose Road
Chennai - 600 001.

... Respondents/
Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V. Act, 1988 against the decree and Judgment dated 10.11.2020 made in M.C.O.P.No.5977 of 2017 on the file of Motor Accident Claims Tribunal (Small Causes Court, Special Sub Court No.2), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For 1st Respondent : No appearance

For 2nd Respondent : Mrs.S.R.Sumathy

J U D G M E N T

This Appeal is by the claimant/mother of the deceased seeking enhancement of the compensation awarded by the Tribunal at Rs.15,82,000/- for the death of her 25 year old son in a motor accident that occurred on 04.09.2017.



2. The factum of the accident and the death of the son of the claimant is not in dispute. The tribunal has held that the accident was caused because of the rash and negligent driving of the TATA ACE goods vehicle bearing Registration No.TN-19-AA-7346 by its driver. As the insurer of the said vehicle, the second respondent/insurance company is liable to pay the compensation. The Insurance Company has accepted the award. The claimant has come up for this Appeal seeking enhancement.

3. Mr. K.Varadhakamaraj, learned counsel appearing for the claimant / appellant would contend that considering the date of the accident, the fixing at Rs.10,000/- as notional income is too low. According to him, the Tribunal should have fixed at least Rs.15,000/- per month. Mr. Vardhakamaraj does not question the compensation awarded under the other heads.

4. Mrs. S.R. Sumathy, learned counsel appearing for the Insurance Company would submit that the Tribunal was justified in taking Rs.10,000/- as the monthly income since there was no evidence on the side of the claimant to prove the monthly income of the deceased. It is stated that the deceased was working as a collection execution in a finance company.

5. Considering the circumstances prevailing at the time of accident and the daily wages paid by the Public Works Department to the Non Muster Roll employees which was around Rs.600/-, I am of the opinion that the income could be fixed at Rs.14,000/- after making certain allowances for a holiday or leave. Since the deceased was only 25 years old, 40% has to be added towards future prospectus as per the Judgment of the Hon'ble Supreme Court in National Insurance Company Vs. Pranay Sethi and others reported in 2017(16)SCC680. If 40% is added to Rs.14,000/-, the monthly income would be Rs.19,600/-. The deceased being a bachelor, 50% deduction has to be made. So the monthly loss of dependency would be Rs.9,800/-. Adopting multiplier of '18', the total loss of dependency would be Rs.21,16,800/-. To this, if we add the conventional damages of Rs.70,000/- awarded by the Tribunal, the total compensation would be Rs.21,86,800/-. The same is rounded of to Rs.21,87,000/-.

6. This Civil Miscellaneous Appeal is partly allowed. The Award of the Tribunal is modified as above. The Insurance Company shall deposit the enhanced compensation with 7.5% interest from the date of the petition till date of deposit to the credit of M.C.O.P.No. 5977 of 2017 within a period of six



weeks from today. On such deposit, the claimant would be entitled to withdraw the entire amount so deposited. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vsg

To

The Judge,
The Motor Accident Claims Tribunal,
Small Causes Court,
Special Sub Court No.2,
Chennai.

Copy To

The Section Officer,
VR Section,
Madras High Court, Chennai.

+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No.1711

CMA No.2721 of 2021

AK-II(CO)
RLP(15/02/2022)