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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

C.M.A. No.1951 of 2020
and CMP.No.14437 of 2020

Oriental Insurance Company Ltd.,
Vengad Theru, P.O.Vengad,
Pin: 670 612 (Policy No.441694/31/2018/4000)
...Appellant/2nd Respondent

Vs.

1. Kumaran T.T.
2. Sathi T.T.
3. Shaiba
4. Harinanda T.T. (minor)
5. Nivedhya T.T. (minor)
(minor claimants 4 & 5 are rep. by their
mother and next friend Shaiba)
...Respondents 1 to 5/Petitioners/Claimants
6. Sooraj P.R.
7. Muhammad Shujahath P.M.K.
8. The New India Assurance Co. Ltd.,
Main Road, Mahe.
(Insurer of Motorcycle No.KL-58-T-1207)
(Policy No.7620031170300005232)
...Respondents 6 to 8/Respondents 1,3 & 4

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, against the award dated 17.07.2020 made in MCOP.No.21 of 2018 on the file of the Motor Accidents Claims Tribunal (Sub Court), Mahe.

For appellant : Mr.D.Bhaskaran

For respondents
for RR1 to 5 : Mr.R.Krishna Prasad
for R6 : left
for R7 : M/s.Annamalai
for R8 : M/s.S.R.Sumathy



9. On the other hand, the learned counsel for the claimants submitted that the compensation awarded by the Tribunal is just and fair, which needs no interference by this Court.

10. Heard the learned counsels appearing on either side and perused the materials available on record.

11. Although it is contended by the learned counsel appearing for the appellant that the driver of the motorcycle bearing Registration No.KL-58-T-1207 also contributed to some extent, we find no substance in his submission for the reason that the evidence of eyewitness discloses that the deceased suffered injuries only on account of the hit by the first respondent.

12. In the case on hand, it is not in dispute that the first respondent hit the two wheeler of the deceased and caused injuries, which led to his death. It is the case of the claimants that the deceased was working as an Office Assistant in ARC Fisheries Azhiyur. Ex.P8, salary certificate shows that the deceased was paid gross salary of Rs.21,000/- per month, out of which, Rs.18,000/- is the basic salary and the remaining Rs.3,000/- is the allowances. So, the income of the deceased is taken as Rs.18,000/- and 40% is added towards future prospects and the total income comes to Rs.25,200/- [18,000 + 7,200]. 1/4 is to be deducted towards personal expenses of the deceased and the contribution to the family would be Rs.18,900/- [25,200 - 6,300]. Applying proper multiplier 15, the Loss of annual Income is arrived at Rs.34,02,000/- [18,900 x 12 x 15].

13. In the light of the decision of the Apex Court in Pranay Sethi, the amounts awarded by the Tribunal under the heads Loss of Love and Affection, Transportation Expenses and Pain and Suffering are set aside and the amounts awarded under the other heads require modification as under:-

S. No.	Heads under which the amount is awarded by the Tribunal	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.
1.	Loss of Dependency and Future Prospects	39,69,000	34,02,000
2.	Loss of Estate	15,000	15,000
3.	Loss of Consortium	2,00,000	40,000
4.	Loss of Love and Affection	4,00,000	-
5.	Transportation Expenses	5,000	-
6.	Funeral Expenses	15,000	15,000



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S. No.	Heads under which the amount is awarded by the Tribunal	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.
7.	For Pain and Suffering	15,000	-
8.	Medical Expenses	12,821	12,821
9.	Damage to Clothing and Articles	2,000	6,000
10.	Filial Consortium	-	80,000
11.	Parental Consortium	-	80,000
	Total	46,33,821	36,50,821 rounded off to Rs.36,50,900

14. In view of the above modifications, the Civil Miscellaneous Appeal is partly allowed. The amount of Rs.46,33,821/- awarded by the Tribunal is reduced to Rs.36,50,900/-. The rate of interest ordered by the Tribunal is confirmed. Out of the award amount, the claimants 1 and 2/ parents of the deceased, are entitled for Rs.3,25,450/- each; the respondents 3 to 5/wife and minor children, are entitled to Rs.10,00,000/- each. The appellant/Insurance Company is directed to deposit the above modified award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. The major claimants 1, 2 and 3 are permitted to withdraw their respective shares of the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. Insofar as the minor claimants 4 and 5 are concerned, their respective shares shall be deposited by the Tribunal in any Fixed Deposit Scheme in any one of the Nationalised Banks and it shall be renewed periodically till they attain majority and the interest accrued thereon shall be withdrawn by the third claimant/mother once in three months directly from the Bank. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

pvs



To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Mahe.

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

+1cc to M/s. Sarvabhauman Associates, SR. No. 8598

C.M.A. No. 1951 of 2020

SV (CO)
PR (09/05/2022)