



C.M.A.No.1373 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.1373 of 2018

Branch Manager,
United India Insurance Company Limited,
No.2, Road Taj Tower,
Mayiladuthurai Town & Taluk.

... Appellant

..Vs..

1.N.Radhakrishnan
2.R.Durga
3.Minor R. Viyasar
4.Minor .R.Sayasini
(Minor respondents 3 & 4 rep by father N.Radhakrishnan)
5.P.Sekar

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 15.02.2018 made in MCOP.No.220 of 2017 on the file of the Motor Accidents Claims Tribunal (Additional Sub-Court) Mayiladuthurai.

For Appellants : Mr.D.Bhaskaran

For Respondents : Mr.T.Gobinath for R1 - R4

JUDGMENT

This appeal has been filed by the appellant/Insurance Company questioning the quantum of compensation granted by the Motor Accident



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Claims Tribunal (Additional Sub-Court) Mayiladuthurai in MCOP.No.220
of 2017.

2. Since the challenge is only to the quantum, there is no necessity to extract the facts of the case. Suffice it to state that in the accident that had taken place on 18.04.2017 one minor Kamesh aged about 8 years and studying in IV Standard had died. The Tribunal had taken a notional income of Rs.5000/- per month and after applying multiplier of 18, after deducting 1/3 for his personal expenses, had arrived at a compensation of a sum of Rs.7,20,000/- towards the pecuniary benefits and a sum of Rs.1,87,000/- towards the conventional heads, in all it granted a sum of Rs.9,07,000/- with interest at 7.5% per annum.

3. Heard the learned counsel on either side and perused the materials available on record.

4. The appellant/Insurance Company is aggrieved by the quantum of the annual income and compensation calculated by adopting the



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multiplier of 18. Therefore, the Award under the head of 'loss of income' is to be modified.

5. Upon perusing the Ex.P1/copy of FIR and Ex.P3/Copy of Port Mortem report, it is seen that the deceased sustained fatal injuries due to the said accident. Ex.P7 to Ex.P12/certificates secured by the deceased from his School. The deceased is aged about 9 years studying in IV standard at the time of accident. But, the Tribunal had fixed the monthly income of the appellant/claimant at Rs.5000/- and no future prospectus is added. Hence, it needs revisit under the head of loss of income. This court is inclined to add 40% towards future prospects. Thus, a sum of Rs.5000/- is taken as monthly notional income, to which 40% is added towards future prospectus and 50% is to be deducted towards personal expenses. To this multiplier of 15 is to be adopted and therefore, the loss of income would be a sum of Rs.6,30,000/-. Thus, this court has arrived at Rs.6,30,000/- ($5000 \times 40\% - \frac{1}{2} \times 12 \times 15$) towards loss of income.



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6. The compensation granted under the other heads are reasonable and does not require any modification. Therefore, the compensation awarded by the Tribunal is reworked as below:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Loss of Income (Rs.5000 x 40%=2000, 7000x ½ x12 x 15)	6,30,000/-
Filial Consortium	80,000/-
Funeral expenses	15,000/-
Loss of Estate	15,000/-
Total	7,40,000/-

7. This appeal is partly allowed and the impugned Award of the Tribunal is modified, reducing the compensation amount from 9,07,000/- to **Rs.7,40,000/-**. The appellant/Insurance Company is directed to deposit the said amount to the credit of MCOP.No.220 of 2017 along with interest at the rate of 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 Judgment. The said amount shall be apportioned amongst the



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claimants as per the Award of the Tribunal. On such deposit being made, the claimants are permitted to withdraw the award amount now determined by this Court, along with accrued proportionate interest and costs as awarded by the Tribunal, less the amount, if any already withdrawn, by filing necessary application before the Tribunal; In other respects, the Award of the Tribunal is hereby confirmed. The Insurance Company is permitted to withdraw any excess amount, if any deposited by them. No costs.

07.02.2023

Index:Yes/No

Internet:Yes/No

gv

To

- 1.The Section Officer
V.R.Section, High Court of Madras.
2. The Motor Accidents Claims Tribunal
(Additional Sub-Court) Mayiladuthurai.



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A.A.NAKKIRAN, J.

gv

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