



C.M.A(MD)No.752 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.03.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.752 of 2015

The Branch Manager,
Balaji Alliance General Insurance Company Ltd.,
G.V.R.Complex, 6A,
2nd Floor, Lasance Road,
Condonement,
Thiruchirappalli-620 001.

... Appellant/1st Respondent

Vs.

1.Subbulakshmi

2.Murugesan

3.Sivasamy

4.Ramayee

... Respondent/Petitioners

5.M/s.South Tourism,
MP/4, Annal Avenue,
Vasanth Nagar Extention,
Srirangam,
Thiruchirappalli.

... Respondent/2nd Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award and decree, dated 26.08.2014 passed in M.C.O.P.No.292 of 2011 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Pudukkottai in so far as quantum is concerned.



C.M.A(MD)No.752 of 2015

For Appellant : Mr.V.Sakthivel
For R1 : Mr.P.Ganapathi Subramaniam
For R2-R5 : No Appearance

JUDGEMENT

The present appeal has been filed by the insurance company primarily on the ground of quantum.

2. According to the learned counsel appearing for the appellant / insurance company, the claimants being 4 in number, the tribunal ought to have deducted 1/4th towards personal expenses. However, it has chosen to deduct 1/5th. The learned counsel appearing for the appellant had further contended that for the 4 claimants, each of them could have been awarded only Rs.40,000/- towards loss of consortium. However, Rs.1,80,000/- has been awarded by the tribunal. He further contended that, under the head of loss of estate, a sum of Rs.1,00,000/- has been awarded. He pointed out that in Column No.12, the loss of estate has been mentioned only to the tune of about Rs.13,500/-. Hence, on these heads, he prayed for reducing the compensation awarded by the tribunal.



C.M.A(MD)/No.752 of 2015

3. Per contra, the learned counsel appearing for the claimants/respondents had contended that no amount has been awarded towards transportation charges. He further contended that loss of consortium has been properly calculated by the tribunal and considering the fact that he was a Government servant, the deduction of 1/5th towards his personal expenses cannot be found fault with. Hence, he prayed for sustaining the award passed by the tribunal.

4. I have carefully considered the submissions made on either side.

5. As far as the contention of the learned counsel for the insurance company relating to the loss of consortium is concerned, each one of the claimant is entitled to Rs.40,000/- and in total, a sum of Rs.1,60,000/- alone could be awarded under the said head. However, as rightly pointed out by the learned counsel appearing for the claimants, the tribunal has not awarded any amount towards transportation expenses considering the fact that the accident has happened at Thirumayam and the body was taken to the hospital and thereafter, back to Thirumayam, this Court is of the view that a sum of Rs.20,000/- could be awarded towards transport expenses.



C.M.A(MD)No.752 of 2015

6. The learned counsel appearing for the appellant had pointed out that TVS-50 belonging to the deceased person had been damaged and as per Column No.12 of the claim petition, only a sum of Rs.13,500/- has been claimed towards loss of estate. However, a sum of Rs.1,00,000/- has been awarded by the tribunal under the head of loss estate. This Court is of the opinion that the said amount is highly excessive and it could be reduced to Rs.25,000/-.

7. In view of the above said facts, this Court is modifying the award to the following effect:

(i) The annual income of the deceased person is Rs.1,88,991/- as per the award of the tribunal. If 1/4th is deducted toward personal expenses, the loss of income would be at Rs.1,41,743/-. After applying the multiplier of 9, the total compensation under the head of loss of dependency is Rs.12,75,689/-.

(ii) The loss of consortium is Rs.1,60,000/- and transportation charges is Rs.20,000/- and loss of estate is Rs.25,000/- and funeral expenses is Rs.15,000/-. The total amount of compensation is fixed at Rs.14,95,689/-.



C.M.A(MD)No.752 of 2015

8. In view of the above said deliberations, the total award amount of Rs.16,55,737/- is reduced and modified as Rs.14,95,689/- (Rupees Fourteen Lakh Ninety Five Thousand Six Hundred and Eighty Nine only). The said amount will carry an interest at 7.5% from 15.06.2011 till the date of realization. If the insurance company has deposited any excess amount, the same shall be refunded along with accrued interest.

9. The 1st respondent, namely the wife, shall be entitled to a sum of Rs.5,00,000/- (Rupees Five Lakh only). The 4th petitioner shall be entitled to Rs.60,000/- (Rupees Sixty Thousand only). The claimants 2 and 3 each will be entitled to Rs.4,67,844.50/- (Rupees Four Lakh Sixty Seven Thousand Eight Hundred Forty Four and Fifty Paise only).

10. With the above said observations, this Civil Miscellaneous Appeal stands allowed. No costs.

23.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

gbg



C.M.A(MD)No.752 of 2015

WEB COPY

- To
- 1.The Motor Accident Claims Tribunal /
Principal District Judge,
Pudukkottai.
 - 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.752 of 2015

R.VIJAYAKUMAR ,J.

gbg

Order made in
C.M.A(MD)No.752 of 2015

23.03.2023