



C.M.A.(MD).No.1203 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**CMA(MD) No.1203 of 2017 and
CMP(MD) No.11877 of 2017**

The Branch Manager
National Insurance Co., Ltd.,
No.4132 Keelarajaveethi
Pudukottai

...appellant/
respondent No.2

Vs.

1.Seetharaman

... respondent No.1/
petitioner No.1

2.Minor Gopinath

3.Minor Yukeswaran

... Respondents2&3/
Petitioners 2&3

4.Sri Vairavamoorthy Roadways Firm
Proprietor
Karaikudi.

... Respondent No.4/
Respondent No.1

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decretal order dated 29.04.2015 in MCOP No.407 of 2012 on the file of the Motor Accident Claims Tribunal, Principal District Court, Pudukottai.



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For Appellant : Mr.D.Sivaraman

For Respondents : Mr.P.Ganapathi Subramanian

for respondents 1 to 3

J U D G M E N T

RMT.TEEKAA RAMAN, J.

This Civil Miscellaneous Appeal is directed against the award and decree dated 29.04.2015 made in MCOP No.407 of 2012 by the Motor Accident Claims Tribunal, Principal District Court, Pudukottai.

2.The claim petition in MCOP No.407/2012 has been filed by the husband and two minor sons of the deceased Karpagam, who died in a road accident, which occurred on 14.09.2011. Alleging that the driver of the second respondent vehicle drove the vehicle in a rash and negligent manner and caused the accident, which resulted in the death of the deceased, the claimants claimed a compensation of Rs.3,00,00,000/-.

3.It is brought to our notice that the manner of the accident, rash and negligent driving of the driver of the offending vehicle, which is insured with the appellant insurance company are not denied. Hence, the finding rendered by the tribunal on those facts are hereby confirmed.



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4. The learned counsel appearing on behalf of the appellant canvassed this appeal only on the ground of quantum of compensation awarded by the tribunal.

5. Heard the learned counsel for the appellant and the learned counsel for the respondents/claimants.

6. Admittedly, the deceased is a Tamil Teacher aged about 41 years and was earning Rs.3,31,464/- per year, as per the evidence of P.W.3-Headmaster and Ex.P10. Since she is a Government servant and aged about 41 years, as per the decision in Pranay Sethi case, the future prospects to be added is only 30% and not 50%. Accordingly, the future prospects is fixed at 30% instead of 50%. After adding 30% future prospects, the annual income of the deceased would be Rs.2,87,268/-/- ($\text{Rs.}27.622 + 30\% - 1/3 = \text{Rs.}35,908 \times 12$).

6. The next contention is towards the non deduction of income tax for the appropriate slab. As per Ex.P8, the annual income of the deceased is Rs.2,87,268/- for the year of accident, viz., 2011, it is 10%



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over and above Rs.1,90,000/-, which comes to Rs.9,726/- and accordingly, after deduction, the annual income will be
$$\text{Rs.2,87,268} - \text{Rs.9726} = \text{Rs.2,77,542} \times 14 \text{ multiplier} = \text{Rs.38,85,588/-}$$

7. We have noticed that on the conventional heads for the loss of consortium and love and affection Rs.1 lakhs and Rs.3 lakhs respectively were awarded and the same is reduced to Rs.40,000/- with regard to the husband/first respondent for loss of consortium and loss of love and affection with regard to minors claimants/ respondents 2 and 3, awarding a sum of Rs.75,000/- each will meet the ends of justice. As far as the loss of estate, Rs.5,00,000/- is reduced to Rs.15,000/-; for transport expenses, the same is enhanced from Rs.5,000/- to Rs.15,000/-; for funeral expenses, a sum of Rs.15,000/- is granted instead of Rs.20,000/-. As far as the medical bills are concerned, the amount awarded by the tribunal remains unaltered.

8. Accordingly, the award amount granted by the tribunal is reassessed as follows:



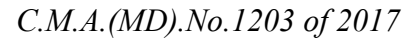
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Heads	Awarded by the tribunal (Rs.)	Modified/reduced	Final Compensation (Rs.)
Loss of income	46,40,496	(reduced)	35,85,588
Loss of consortium	1,00,000	(reduced)	40,000
Loss of love and affection	3,00,000 (for all claimants)	(reduced) (for R2 and R3 alone) (75,000 x 2)	1,50,000
Funeral expenses	20,000	(reduced)	15,000
Transport expenses	5,000	(enhanced)	15,000
For medical expenses	1,93,128	(Confirmed)	1,93,128
For loss of estate	5,00,000	(reduced)	15,000
Total	57,58,624	Reduced	40,13,716

The compensation is reduced from Rs.57,58,624/- to Rs.40,13,716/-.

Accordingly, the respondents 1 to 3 are entitled for the compensation of Rs.40,13,716/- (Rupees forty lakhs thirteen thousand seven hundred and sixteen only) with interest at 7.5% from the date of petition till the date of realization.

9. The insurance company is directed to deposit the balance amount along with interest within a period of eight weeks from the date of receipt of a copy of this judgment, if not already deposited. On such



10. In the result, the civil miscellaneous appeal is allowed in part with the above modifications. No costs. Consequently connected Miscellaneous Petition is closed.

RR



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1.The Motor Accident Claims Tribunal,
Principal District Court, Pudukottai.

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



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