BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2023

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD)No.677 of 2019
and
C.M.P.(MD)No.8265 of 2019

The Branch Manager,
United India Insurance Company Ltd.,
Office at Ground Floor,
Pallath Tower, Eloor Road, Kalamassery,
Kochi, Ernakulam – 683 104,
Kerala State and Registered Head Office at
No.24, Whites Road, Chennai – 600 014. ... Appellant

vs.

1.Rajeswari, W/o.Late.Ramanathan
2.Ramya, D/o.Late. Ramanathan
3.Surendran, S/o.Late. Ramanathan
4.Sharmitha, D/o.Late. Ramanathan
5.K.M.Mohammed Faizal
6.The Branch Manager,
The Oriental Insurance Company Ltd.,
Old No.145, New No.211, First Floor,
Sathiyamoorthy Illam, Sekkalai Road,
Karaikudi. ... Respondents
[Respondents 3 and 4 are declared as majors as per
the order dated 20.01.2023]

Prayer :- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 01.09.2017, passed in M.C.O.P.No.162 of 2015, on the file of the Motor Accident Claims Tribunal [Additional District Judge], Ramanathapuram, and set aside the same.

For Appellant : Mr.G.Prabhu Rajadurai

For Respondents 1 to 4 : Mr.K.Mahendran

For 6th Respondent : Mr.E.Chandrasekaran

JUDGMENT

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

This appeal is preferred by the Insurance Company being aggrieved by the quantum of compensation awarded by the Tribunal.

2. It is a case where one Ramanathan, aged 45 years, died in the accident occurred on 21.05.2015. The two wheeler bearing Registration No.TN-65-S-9882 driven by the deceased was insured under the sixth respondent Insurance Company. Whereas the offending vehicle namely, Innova Car, bearing Registration No.KL-7-BF-3132, owned by the fifth respondent, insured under the appellant Insurance Company. Claim Petition for a sum of Rs.35,00,000/- was filed by the wife and three children, out of which, two are minors. According to the claimants, the deceased was an L.I.C. Agent and part-time Postmaster, earning a total sum of Rs.20,903/- per month and he had bright future prospects, earned more, but due to his sudden death at the age of 45 years, they lost his income and dependency both physical and financial.

3. To substantiate the claim, the wife of the deceased and one Karuppiah were examined and 12 documents were marked to support the claim petition. On behalf of the Insurance Company, there was no oral or documentary evidence.

4. After appreciating the evidence, the Tribunal came to the conclusion that the deceased was earning a sum of Rs.18,000/- per month through his Agency and Branch Postmaster. At the time of death, he was 45 years old and applying the principle laid down in **Sarla Verma and others vs. Delhi Transport Corporation and others** reported in **(2009) 6 SCC 121**, multiplier '14' was adopted. Being a salaried person, 30% was added towards future prospects as per the judgment of the Hon'ble Supreme Court in **National Insurance Co. Ltd., vs. Pranay Sethi and others** reported in **(2017) 16 SCC 680** and a sum of Rs.29,48,400/- was awarded towards loss of income. Under other conventional heads, additional sum of Rs.4,25,000/- was awarded.

5. In the appeal, the appellant Insurance Company has impugned the award on the ground that the Tribunal erred in estimating the monthly income of the deceased as Rs.18,000/- and further, the additional loss of income towards future prospects at the rate of 30% is excessive. The award of Rs.1,00,000/- towards loss of consortium to the wife and Rs.1,00,000/- each towards loss of love and affection to the three children are on the higher side. It is pointed out by the learned counsel

appearing for the appellant that the award of Rs.25,000/- towards funeral expenses is contrary to the guidelines laid down by the Hon'ble Supreme Court in **Pranay Sethi's case** [cited supra].

6. The learned counsel appearing for the respondents 1 to 4/claimants would submit that a very promising and prospective person died at the age of 45 suddenly in the road accident, leaving behind his wife and three children, out of which, two are minors. Taking into account of his income as Branch Postmaster and as an Agent of L.I.C., the Tribunal has awarded a total sum of Rs.33,73,400/- with interest at the rate of 7.5% p.a. Hence, the award requires no interference.

7. Heard the learned counsel appearing for the parties and perused the material on record.

8. After giving anxious consideration to the rival submissions, this Court finds no error in the award passed by the Tribunal. Insofar as calculating the loss of income of the deceased Ramanathan, since his income fixed by the Tribunal is well fortified through the Salary Certificate [Ex.P.6] and Appointment of Agency Letter from L.I.C. [Ex.P.7] and Annual Tax Statement [Ex.P.9]. Therefore, the award of Rs.29,48,400/- towards loss of income is confirmed. So far as the compensation under the non-conventional heads, this Court finds that there are certain deviations in

the award comparing to the guidelines framed by the Hon'ble Supreme Court in **Pranay Sethi's case** [cited supra] and later, clarified in **Magma General Insurance Co. Ltd. vs. Nanu Ram and others** reported in **(2018) 18 SCC 130**. Therefore, the award of the Tribunal is modified as below:-

Loss of Consortium to the wife and loss of love and affection to the three children	Rs.40,000/- x 4 = Rs.1,60,000/-
Funeral Expenses	Rs. 15,000/-
Loss of Estate	Rs. 15,000/-
Total	Rs. 1,90,000
Add:- Loss of Income	Rs.29,48,400
Grand Total	Rs.31,38,400

Thus, the award of the Tribunal is modified as Rs.31,38,400/-. At the time of filing the claim petition, the respondents 3 and 4 are minors and now, they would have attained majority. The learned Counsels also submitted that they have attained majority. Therefore, they are declared as majors. Hence, the compensation shall be apportioned between the claimants as per ratio determined by the Tribunal. The appellant Insurance Company is hereby directed to deposit the entire award amount 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 deposit, the claimants are entitled to withdraw the amount as per the apportionment fixed by the Tribunal. If any amount is in excess, the same shall be refunded to the appellant Insurance Company on an appropriate application. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SMN2

[G.J., J.] [S.M., J.]
20.01.2023

To

1.The Motor Accident Claims Tribunal
[Additional District Judge],
Ramanathapuram,

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

SMN2

JUDGMENT MADE IN
C.M.A.(MD)No.677 of 2019

DATED : 20.01.2023