



C.M.A.No.2199 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

C.M.A.No.2199 of 2023
and
C.M.P.Nos.21149 of 2023 & 6396 of 2024

Reliance General Insurance Company Ltd.,
Sakthi Super Market 3rd Floor,
408, Perundarai Road, Erode – 638011.

..Appellant

Vs.

1.A.Mahalakshmi

2.Minor Karthick

3.Minor Ranjith

[Respondents 2 and 3 represented by
natural guardian/ mother 1st respondent]

4.Rajammal

5.Velumani

6.Muthayammal

7.Manikandan

...Respondents



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Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the judgment and decree dated 02.09.2022 passed in MCOP.No.414 of 2018 on the file of the MACT (III Additional District and Sessions Court), Gobichettipalayam.

For Appellant : Mr.P.Suresh Srinivasan
For Respondents : Mr.D.Babu Varadharajan
for R1 to R4

Mr.R.Vijayan for R5 to R7

J U D G M E N T

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

With the consent of the learned counsel for the parties, the appeal itself is taken up for hearing.

2. The Insurance Company is on appeal. Challenge in this appeal is only to the quantum of compensation awarded. We therefore do not delve into the aspect of negligence. The proved income of the deceased was Rs.29,534/- per month. The Tribunal has adopted 50% towards future prospects, taking the age of the deceased at 40 years.



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3. The learned counsel for the appellant Insurance Company would vehemently contend that in paragraph No.59.3 of the judgment in ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***, 50% could be adopted only if the age is below 40 years and not 40 years or above.

4. Contending contra Mr.R.Vijayan, learned counsel appearing for the respondents would submit that 50% would apply even to a person who is 40 years old.

5. The paragraph No.59.3 of the judgment in ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680*** reads as follows:-

*59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and **was below the age of 40 years**, should be made. The addition should be 30%, if the age of the*



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deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

6. In view of the clear language, we are unable to accept the submission of the learned counsel for the respondents. 50% towards future prospects could be adopted only where the age is below 40 years and not 40 years and above. Hence, the compensation granted has to be re-worked.

7. The monthly salary received at the time of the death was Rs.29,534/- if we are to add 30% towards future prospects, the monthly salary would come to Rs.38,394/-. If we deduct 1/4th towards personal expenses, the monthly loss of dependency would be Rs.28,795/-. Applying the multiplier '15', the total loss of dependency would be Rs.51,83,100/- (28,795 x 12 x 15). The Tribunal has awarded only Rs.40,000/- towards loss of consortium to the 1st petitioner. The minor claimants and the mother are also entitled to compensation towards loss of love and affection, which would be Rs.1,20,000/-. Therefore, we award a sum of Rs.1,20,000/-



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towards loss of love and affection for the minor claimants and the mother.

The amount awarded towards loss of estate and funeral expenses is in tune with the dictum of the Hon'ble Supreme Court referred to *supra*. Thus, the total compensation would be,

Loss of dependency	= Rs.51,83,100/-
Loss of consortium to the 1 st claimant	= Rs. 40,000/-
Loss of love and affection to the claimants 2 and 3	= Rs. 1,20,000/-
Loss of estate	= Rs. 15,000/-
Funeral expenses	= Rs. 15,000/-
Total	= Rs.53,73,100/-

8. The same is rounded off to Rs.53,73,000/-. Thus, the appeal is **allowed in part** and the compensation is modified as above and the wife/ 1st claimant would be entitled to 30% of the compensation, the two minor claimants would each be entitled to 30% and the remaining 10% is to be paid over to the mother. It is stated that the Insurance Company deposited 75% of the compensation along with interest. The same shall be paid over to



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the claimants in the above proportion and the balance, if any, has to be paid over to the Insurance Company. No costs. Consequently, the connected miscellaneous petitions are closed.

(R.S.M., J.) (R.S.V., J.)
28.06.2024

dsa
Index : No
Internet : Yes
Neutral Citation : No
Speaking order



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To:-

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The III Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
Gobichettipalayam.



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and
R.SAKTHIVEL, J.

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