IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 02.07.2024

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THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

C.M.A.Nos.1424 of 2021 and 1238 of 2022

1.Dhanam
2.Arumugam
3.Amutha .. Appellants in CMA.No.1424/21
Respondents 1 to 3 in CMA.No.1238/22

Vs

1.Latha .. 1st respondent in CMA.No.1424/21
4th respondent in CMA.No.1238/22

2.The United Insurance Company Ltd.,
146/N, Kumar Complex,
Tiruchengode,
Namakkal District. .. 2nd respondent in CMA.No.1424/21
Appellant in CMA.No.1238/22

3.Managing Director,
Kavithas Arts and Science College,
Vaiyappamalai Post,
Namakkal District. .. 3rd respondent in CMA.No.1424/21
5th respondent in CMA.No.1238/22

Common Prayer: These Appeals are filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 23.12.2020 passed in M.C.O.P.No.147 of 2017, on the file of the Motor Accident Claims Tribunal, Sub-Court, Rasipuram.

For Claimants : Mr.R.Nalliyappan

For R2/Insurance Co. : Mrs.R.Sreevidhya

For R1 & R3
in CMA.No.1424/21 : No Appearance

COMMON JUDGMENT

Aggrieved by the impugned award passed by the Motor Accident Claims Tribunal (Sub-Court), Rasipuram, in M.C.O.P.No.147 of 2017, dated 23.12.2020, the claimants have filed an appeal in C.M.A.No.1424 of 2021 seeking for enhancement of compensation

2. The very same award has been challenged by the Insurance Company in C.M.A.No.1238 of 2022 contending that the Tribunal has erroneously awarded 50% towards loss of future prospects to the claimants, which is excessive. Eventhough certain other grounds have also been raised by the Insurance Company, the learned counsel for the Insurance company would submit that the Insurance Company is challenging only the quantum of compensation awarded by the Tribunal.

3. Since both the claimants and the Insurance Company are aggrieved by the very same impugned award, these appeals are disposed of by a common judgment.

4. The appellants in C.M.A.No.1424 of 2021 are the claimants in M.C.O.P.No.147 of 2017 and they are the dependents of the deceased Sasikumar, who died as a result of the accident caused by a vehicle insured with the second respondent Insurance Company. Both the Insurance Company as well as the claimants are not aggrieved by the findings with regard to negligence, but, they are aggrieved only with regard to quantum of compensation. The Tribunal, under the impugned award, directed the Insurance Company to pay the claimants a compensation of Rs.16,90,000/- as detailed hereunder:-

Pecuniary Loss	-- Rs.16,20,000/-
Funeral expenses	-- Rs.15,000/-
Consortium	-- Rs.40,000/-
Loss of estate	-- Rs.15,000/-
Total	**-- Rs.16,90,000/-**

5. As could be seen from Ex.P12 (degree certificate), the deceased had completed M.E.(Manufacturing Engineering). The accident happened in the year 2017. The Tribunal has fixed notional monthly income of the deceased at Rs.10,000/-, which, in the considered view of the Court, is too low.

6. The learned counsel for the claimants also relied upon a judgment of the Hon'ble Supreme Court in the case of ***Basanti Devi and another Vs. Divisional Manager, New India Assurance Co. Ltd. and others [2022 (1) TN MAC 148 (SC)],*** wherein the Hon'ble Supreme Court has confirmed the monthly income of Rs.20000/- fixed by the Tribunal for an accident happened in the year 2015.

7. In the present case, the deceased had completed M.E. (Manufacturing) as seen from Ex.P12. The accident happened in the year 2017. However, the same yardstick as applied in ***Besanti Devi's case (cited supra)*** cannot be applied in the present case, in view of the fact that the deceased in that case was a B.E. (Computer Science) Graduate, whereas, in the present case, the deceased had completed M.E. (Manufacturing). The job prospects for a computer engineer are much

higher than the job prospects for a B.E. Graduate in Manufacturing. Though the Hon'ble Supreme Court in the said decision has upheld the award of the Tribunal fixing notional monthly income of the deceased at Rs.20,000/-, in the said decision, it has not been directed that in all cases where the deceased is a B.E. Graduate, necessarily, the Court will have to fix the notional monthly income only at Rs.20,000/-. Therefore, fixing of notional monthly income depends upon the facts and circumstances of each case.

8. After giving due consideration to the fact that the accident happened in the year 2017 and the deceased was a M.E. Graduate in Manufacturing, this Court is of the considered view that the notional monthly income fixed by the Tribunal at Rs.10,000/- is too low and therefore, it has to be necessarily enhanced and accordingly, notional monthly income is enhanced to Rs.18,000/-.

9. The Tribunal has committed an error in awarding loss of future prospects at 50%, though it has to be only 40% as per the settled law. In view of the same, loss of future prospects awarded by the Tribunal under

the impugned award is reduced to 40% by this Court from 50% fixed by the Tribunal. The Tribunal has correctly adopted multiplier '18', since the deceased at the time of the unfortunate accident was aged about 24 years. Since the deceased was a bachelor at the time of the accident, 50% of his income should be deducted towards his personal expenses. Accordingly, Rs.16,20,000/- awarded by the Tribunal towards pecuniary loss is modified as detailed hereunder:-

Monthly income	-- Rs.18,000/-
(+) 40% of future prospects	-- Rs.7,200/-
Total	-- Rs.25,200/-
(-) 50% towards personal expenses	-- Rs.12,600/-
Pecuniary loss = 12600 x 12 x 18	-- Rs.27,21,600/-

10. One more error has been committed by the Tribunal under the impugned award as the Tribunal has erroneously awarded only a compensation of Rs.40,000/- towards consortium, instead of awarding Rs.80,000/-, since the parents of the deceased are alive and each of them are entitled to Rs.40,000/- each. The Tribunal has rightly awarded compensation of Rs.15,000/- towards funeral expenses and another Rs.15,000/- towards loss of estate, which are confirmed by this Court.

11. For the foregoing reasons, the award passed by the Tribunal is re-worked in the following manner:-

Pecuniary loss	-- Rs.27,21,600/-
Loss of love and affection	-- Rs.80,000/-
Funeral expenses	-- Rs.15,000/-
Loss of estate	-- Rs.15,000/-
Total compensation	**-- Rs.28,31,600/-**

12. In the result, both the Civil Miscellaneous Appeals are disposed of and the impugned award passed by the Tribunal in M.C.O.P.No.147 of 2017, dated 23.12.2020, is modified by directing the second respondent Insurance Company to deposit the entire award amount of Rs.28,31,600/- together with interest at 7.5% per annum from the date of claim petition till the date of realization, to the credit of M.C.O.P.No.147 of 2017 on the file of Motor Accident Claims Tribunal, Sub-Court, Rasipuram, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal is directed to transfer the entire award amount as ordered in this judgment along with accrued interest therein through RTGS/NEFT transfer to the bank account of the claimants as apportioned by the Tribunal. No Costs.

C.M.P.No.8996 of 2022 is closed.

02.07.2024

Index: yes/no
Neutral citation: yes/no
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To

Motor Accident Claims Tribunal,

Sub-Court,

Rasipuram.

ABDUL QUDDHOSE,J.

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C.M.A.Nos.1424 of 2021 and 1238 of 2022

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