



C.MA.No.758 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM:

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

C.M.A.No.758 of 2024
and
C.M.P.No.7029 of 2024

The New India Assurance Co. Ltd.,
T.P.Hub, No.232, 6th Floor,
N.S.C.Bose Road,
Bombay Mutual Building,
Chennai - 600 001.

...Appellant

Vs.

1.T.Malarkodi
2.T.Vignesh
3.T.Vinoth
4.G.Perumal

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P.No.1884 of 2019 dated 22.12.2022 on the file of the Motor Accident Claims Tribunal (Chief Judge, Small Causes Court, Chennai).

For Appellant : Mr.J.Chandran

For Respondents : Mr.V.Jayanandakumar for R1 to R3
R4 - Exparte



J U D G M E N T

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

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The Insurance Company is on appeal. Challenge is only to the quantum of compensation awarded in MCOP.No.1884 of 2014 on the file of the Chief Judge, Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.Since the challenge is only on the quantum, we are not delving upon the other aspects. The Tribunal has awarded a sum of Rs.41,82,000/- for the death of one Sivasankaran in a motor accident that occurred at about 16.45 hours on 24.05.2018. The deceased was a Mechanical Engineering graduate and was pursuing his Masters in Business Administration at the time of the accident. He is survived by his mother and two brothers. The Tribunal took the monthly income of the deceased at Rs.20,000/-, added 40% towards future prospects, deducted 1/3rd towards his personal expenses and arrived at the total loss of dependency at Rs.40,32,000/-. It also awarded a sum of Rs.15,000/- each towards loss of estate and funeral expenses and a sum of Rs.1,20,000/- at Rs.40,000/- each to the mother and two brothers for loss of love and affection. Thus, the total compensation was arrived at Rs.41,82,000/-.



3. We have heard Mr.J.Chandran, learned counsel appearing for the appellant / Insurance Company and Mr.V.Jayanandakumar, learned counsel for the respondents 1 to 3. The 4th respondent remained exparte before the Tribunal.

4. Mr.J.Chandran, learned counsel appearing for the Insurance Company would submit that the assumption of monthly income at Rs.20,000/- is flawed. He would submit that the monthly income assumed can only be Rs.15,000/- and the deduction must be $\frac{1}{2}$ and not $\frac{1}{3}$.

5. Contending contra, Mr.V.Jayanandakumar, learned counsel appearing for the claimants / respondents 1 to 3 would submit that in the peculiar circumstances of the case where the deceased lost his father also, the Tribunal was right in assuming $\frac{1}{3}$ deduction. The Tribunal cannot be faulted for assuming Rs.20,000/- as monthly income, particularly, when the accident took place in the year 2018. We have considered the rival submissions.



6. We are unable to agree with the contention of the learned counsel for the appellant that the fixation of Rs.20,000/- as monthly income is on the higher side. Admittedly, the deceased was an Engineering Graduate and was pursuing his Masters in Business Administration therefore, fixation of Rs.20,000/- appears to be reasonable more so, when even the last grade servant in the Government was earning around Rs.18,000/- to Rs.20,000/- at the relevant point of time.

7. On the question of deduction towards personal expenses, we have to necessarily acced to the contention of the learned counsel for the appellant. The deceased having died as a Bachelor, the Tribunal ought to have deducted $\frac{1}{2}$ towards his personal expenses instead of $\frac{1}{3}$. If we deduct $\frac{1}{2}$ towards his personal expenses, the loss of dependency would be Rs.28,000/- x 12 x 18 x $\frac{1}{2}$ = Rs.30,24,000/-. If we add the other three heads of compensation granted at Rs.15,000/- each towards loss of estate and funeral expenses and Rs.1,20,000/- for loss of love and affection, the total compensation would be Rs.31,74,000/-.

8. In fine, this Civil Miscellaneous Appeal is **partly allowed**, the total



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compensation fixed is modified and reduced to Rs.31,74,000/- The interest granted by the Tribunal at 7.5% per annum from the date of filing of the application till date of realization is applied. The compensation is apportioned as follows:-

i)The first claimant namely, mother of the deceased would be entitled to a sum of Rs.24,74,000/-

ii) The remaining sum of Rs.7,00,000/- is apportioned to the other two claimants equally at Rs.3,50,000/-.

9.The claimants would be entitled to proportionate interest on the amount apportioned to them. The Insurance Company will have twelve (12) weeks time to deposit the award amount as modified and on such deposit, the Tribunal will pay out the monies to the claimants who are admittedly majors. The parties will bear their own costs in this appeal. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (R.S.V., J.)
26.03.2024

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R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

KKN

To :-

The Motor Accident Claims Tribunal,
Chief Judge, Court of Small Causes,
Chennai.

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and
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