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C.M.A. No.2136 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.2136 of 2017
and
Cross Objection No.6 of 2023
and
C.M.P. No.11337 of 2017

United India Insurance Co. Ltd.,
104-A, Ranga Buildings,
Peramanur Main Road,
Near Four Road,
Salem – 636 007.

.... Appellant in
C.M.A. No.2136 of 2017
and
1st respondent in
Cross Objection No.6 of 2023

VS.

1. Rani
2. Ramya

... Respondents 1 & 2
in C.M.A. No.2136 of 2017
and
Cross Objectors in
Cross Objection No.6 of 2023

3. S.M. Chandramohan

.... 3rd respondent in
C.M.A. No.2136 of 2017
and
2nd respondent in
Cross Objection No.6 of 2023



C.M.A. No.2136 of 2017

Prayer in C.M.A. No.2136 of 2017 : Civil Miscellaneous Appeal filed under 173 of the Motor Vehicles Act, 1988 against the award and decree dated 06.10.2016 made in M.C.O.P. No.2107 of 2014 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court, Salem.

Prayer in Cross Objection No.6 of 2023: Cross Objection filed under Order XXXXI, Rule 22 of C.P.C. to enhance the award amount from Rs.10,14,000/- to Rs.13,14,000/- with interest and dismiss the appeal filed by the appellant in C.M.A. No.2136 of 2017 and by allowing this Cross Appeal.

For Appellant in
C.M.A. No.2136 of 2017
and
1st respondent in
Cross Objection No.6 of 2023 : Mr.S. Arun Kumar

For Respondents 1 & 2 in
C.M.A. No.2136 of 2017
and
Cross Objectors in
Cross Objection No.6 of 2023 : Mr.S. Sivakumar

For 3rd respondent in
C.M.A. No.2136 of 2017
and
2nd respondent in
Cross Objection No.6 of 2023 : No appearance

COMMON JUDGMENT



C.M.A. No.2136 of 2017

WEB COPY C.M.A. No.2136 of 2017 has been filed by the Insurance Company challenging the impugned award on the ground that the quantum of compensation awarded by the Tribunal is excessive.

2. Cross Objection No.6 of 2023 has been filed by the claimants seeking dismissal of the appeal viz., C.M.A. No.2136 of 2017 and also seeking for enhancement of compensation awarded by the Tribunal under the impugned award, dated 06.10.2016 in M.C.O.P. No.2107 of 2014.

3. Heard Mr.S. Arunkumar, learned counsel for the appellant in C.M.A. No. 2136 of 2017 / Insurance Company and Mr.S. Sivakumar, learned counsel for the respondents / claimants / cross objectors.

4. This Court has perused and examined the impugned award passed by the Tribunal.

5. The Tribunal under the impugned award directed the appellant / Insurance Company to pay compensation of Rs.10,14,000/- to the



C.M.A. No.2136 of 2017

respondents / claimants / cross objectors, for the death of R. Veerappan on 24.08.2014 as a result of an accident caused by the vehicle insured with the appellant / Insurance Company as detailed hereunder :

MCOP No.2107 of 2014 corresponds to CMA No.2136 of 2017

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Loss of Income (Rs.12,000/- Less 1/3 rd = Rs.8,000/- x 12 = 96,000 x 9)	8,64,000
Loss of consortium	50,000
Loss of love and affection Rs.25,000 x 2	50,000
Funeral expenses	50,000
Total	10,14,000

6. The claimants in their claim petition have pleaded that the deceased was a Businessman. Excepting for producing the passport of the deceased to show that he was a frequent air traveller, there was no documentary evidence produced by the respondents / claimants to substantiate their claim for assessment of the monthly income of the deceased. The Tribunal has fixed the notional monthly income of the deceased at Rs.12,000/-. The accident happened in the year 2014. Even though the learned counsel appearing for the respondents / claimants



would plead that the fixation of the notional monthly income at Rs.12,000/- is low, this Court is of the considered view that since the respondents / claimants have not produced any documentary evidence to prove the monthly income of the deceased, the Tribunal is correct in assessing the notional monthly income of the deceased at Rs.12,000/-. The learned counsel for the appellant / Insurance Company also pleads for reduction of notional monthly income of the deceased. But this Court rejects his submission, since the Tribunal has rightly fixed the notional monthly income of the deceased only after giving due consideration to the avocation and the year of the accident.

7. The Tribunal has failed to award any compensation towards loss of future prospects, which the respondents / claimants are legally entitled to. However, the Tribunal has committed an error in awarding compensation towards loss of consortium, despite the fact that the Tribunal has separately awarded compensation towards loss of love and affection. The Tribunal has also erroneously awarded higher compensation under the conventional head viz., Funeral expenses. Since the Tribunal has not awarded any compensation towards loss of future prospects, the said amount can be set off in respect of the excess amount of compensation awarded by the Tribunal under the conventional head.



C.M.A. No.2136 of 2017

8. The total compensation awarded by the Tribunal in M.C.O.P. No.2107 of 2014 is Rs.10,14,000/-. Being a fatal accident claim, this Court is of the considered view that the overall compensation awarded by the Tribunal at Rs.10,14,000/- is a just compensation and neither the appellant / Insurance Company nor the respondents / claimants / cross objectors are entitled either to seek for reduction or for enhancement.

9. For the foregoing reasons, there is no merit in both C.M.A. as well as the Cross Objection. Accordingly, both Civil Miscellaneous Appeal as well as the Cross Objection is dismissed No costs. Consequently, connected miscellaneous petition is closed.

10. The appellant / Insurance Company is directed to deposit the amount awarded by the Tribunal along with interest @ 7.5% p.a., after deducting the amount already deposited if any, from the date of claim till the date of deposit and costs, to the credit of M.C.O.P. No.2107 of 2014 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, Salem, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank



C.M.A. No.2136 of 2017

account of the respondents /claimants / cross objectors, as per the same ratio of apportionment made by the Tribunal through RTGS, within a period of two weeks thereafter.

10.07.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

To

1. The Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Salem.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

ABDUL QUDDHOSE, J.

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C.M.A. No.2136 of 2017

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and
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