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C.M.A.No.1146 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1146 of 2020

and

C.M.P.No.7256 of 2020

M/s.National Insurance Company Limited,
Rep. by its Divisional Manager,
No.33, Promenade Road,
Cantonment,
Trichy District.

... Appellant

Vs.

1.Geetha
2.V.R.Chinnaiah

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 10.03.2017 made in M.C.O.P. No.128 of 2016 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Perambalur.

For Appellant : Ms.R.Sree Vidhya

For Respondents : Mr.N.Ravishankar Vallatharasu
for R2

R1 - No Appearance



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C.M.A.No.1146 of 2017



JUDGMENT

This appeal has been filed by the Insurance Company, questioning the quantum of compensation awarded by the Tribunal. According to them, the compensation awarded by the Tribunal is excessive and it has to be reduced.

2. The Tribunal under the impugned award has directed the appellant Insurance Company to pay a compensation of Rs.16,12,000/- to the first respondent / claimant on account of the death of the first respondent's son as a result of an accident caused by a vehicle insured with the appellant Insurance Company. The details of the compensation awarded by the Tribunal under the impugned award is set out hereunder:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>
Loss of income	15,30,000
Loss of love and affection	50,000
Funeral expenses	20,000
Transportation	10,000
Damages to clothing	2,000
Total	16,12,000



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3. According to the appellant Insurance Company, the Tribunal has erroneously deducted only 1/3rd towards personal expenses of the deceased.

According to them, the deceased being a bachelor, the Tribunal ought to have deducted 50% towards personal expenses of the deceased, but, instead has erroneously deducted only 1/3rd towards personal expenses of the deceased.

4. The appellant has also contended in this appeal that the quantum of compensation awarded by the Tribunal under various other heads is also excessive and it has to be reduced.

5. In so far as the first ground raised by the appellant that the Tribunal has erroneously deducted only 1/3rd towards personal expenses of the deceased is concerned, the said ground has to be accepted by this Court since as per settled law, for a bachelor, deduction to be made towards his personal expenses is 50%. But, the Tribunal has erroneously deducted only 1/3rd towards his personal expenses. If 50% is deducted towards personal expenses of the deceased, the compensation towards loss of dependency has to be assessed at Rs.11,47,500/- instead of Rs.15,30,000/- erroneously fixed



by the Tribunal. Accordingly, the loss of dependency, is re-assessed by this Court at Rs.11,47,500/-.

6. The Tribunal has erroneously awarded a higher compensation of Rs.50,000/- towards loss of love and affection to the first respondent / claimant. As per the settled law, the compensation to be awarded for each of the dependants towards loss of love and affection is Rs.40,000/-. In the instant case, since the first respondent / claimant is the only dependant of the deceased, the compensation payable to her towards loss of love and affection has to be assessed at Rs.40,000/- as per the settled law and not at Rs.50,000/- erroneously fixed by the Tribunal.

7. Similarly, the compensation awarded by the Tribunal towards funeral expenses at Rs.20,000/- is on the higher side and it has to be reduced to Rs.15,000/- as per settled law. Accordingly, the same is reduced to Rs.15,000/- by this Court.

8. In so far as the compensation awarded by the Tribunal towards transportation and damages to clothing at Rs.10,000/- and Rs.2,000/-



respectively are concerned, the same is a just compensation.

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9. The Tribunal has failed to award any compensation towards loss of estate, which the first respondent / claimant is legally entitled to. This Court, therefore, awards a compensation of Rs.15,000/- to the first respondent / claimant towards loss of estate as per settled law.

10. For the foregoing reasons, the compensation payable by the appellant Insurance Company is re-worked in the following manner:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Loss of income	15,30,000	11,47,500
Loss of love and affection	50,000	40,000
Funeral expenses	20,000	15,000
Transportation	10,000	10,000
Damages to clothing	2,000	2,000
Loss of estate	-	15,000
Total	16,12,000	12,29,500

11. Since the driver of the insured vehicle was admittedly not possessing a valid license at the time of the accident, as seen from the evidence available on record, the Tribunal has rightly granted pay and recovery rights by directing the appellant Insurance Company to pay the



claimant and thereafter, recover the same from the second respondent. The said finding given by the Tribunal is also confirmed by this Court.

12. In the result, this Civil Miscellaneous Appeal is **partly allowed** by reducing the award amount from **Rs.16,12,000/-** to **Rs.12,29,500/-**. The appellant insurance company is directed to deposit the reduced award amount of **Rs.12,29,500/-**, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.128 of 2016** on the file of the **Motor Accidents Claims Tribunal, Principal District Court, Perambalur**, within a period of **four weeks** from the date of receipt of a copy of this judgment.

13. The first respondent /claimant is permitted to withdraw the said amount, once it is deposited by the appellant /Insurance Company, by filing an appropriate application before the Tribunal. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.128 of 2016** to the bank account of the first respondent /claimant directly through NEFT / RTGS, within a period of **one week** thereafter. No



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costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The Motor Accidents Claims Tribunal, Principal District Court, Perambalur.
2. The Section officer, Record Section, High Court of Madras.



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ABDUL QUDDHOSE. J.,

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