



C.M.A.(MD).No.229 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2024

CORAM

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

C.M.A.(MD).No.229 of 2020

and

C.M.P.(MD).No.3542 of 2020

Universal Sampo General Insurance
Company Limited,

Tristar 3rd Floor,
Avinashi Road,
Coimbatore.

... Appellant

Vs.

1.Minor Aayush

2.P.R.Jeya

3.P.Ramdhas Thantri

4.M/s.RPP Constructions (P) Limited,
No.140, Perunthurai Road,
P and C Towers,
3rd Floor, Erode.

... Respondents

Prayer:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal order dated 19.03.2018 made in M.C.O.P.No.114 of 2016 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Karur.

For Appellant : Mr.S.Srinivasa Raghavan

For R1 to R3 : Mr.S.Shanmugaselvam



C.M.A.(MD).No.229 of 2020

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J U D G M E N T

(Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN, J.**)

Aggrieved over the award passed by the Motor Accident Claims Tribunal (Principal District Judge), Karur in M.C.O.P.No.114 of 2016, dated 19.03.2018, the present appeal has been filed by the Insurance Company.

2. Facts of the case:

According to the claimants, on 25.05.2015, the deceased namely, Ramesh Thantri was driving his car bearing Registration No.TN 47 AC 2876 in Karur – Trichy Bypass Road. His wife Usha Thantri and his minor sons Aayush and Adithya were travelling in the car. At that time, a lorry bearing Registration No.TN 33 AR 7683 belonging to the fourth respondent came in a rash and negligent manner and dashed against a Tractor, which was coming West to East. Due to the said impact, the driver of the lorry could not control his vehicle and violently hit the car driven by the deceased Ramesh Thantri. As a result, Ramesh Thantri, his wife Usha Thantri died instantaneously on the spot. One of their sons Adithya sustained multiple grievous injuries and taken to Government Hospital, Kulithalai, where he was declared dead on arrival. The first respondent is the minor son of Ramesh Thantri and other respondents are parents of the deceased. At the time of accident, Ramesh Thantri was 42 years



C.M.A.(MD).No.229 of 2020

old and he was a Mechanical Engineer and he was running a textile company viz., Euro Textiles. Hence the claimants seeking compensation, filed three MCOP cases before the Tribunal. Since all the three cases arose out of same accident, all the case were consolidated and common evidence was recorded M.C.O.P.No.114/2016, is an application for compensation for the death of Ramesh Thantri, M.C.O.P.No.115/2016 is an application for compensation for the death of Usha Thantri and M.C.O.P.No.116/2016 is an application for compensation for the death of minor Adithya in a road accident. The Tribunal awarded the compensation of Rs.71,30,000/-, Rs.54,61,200/- and Rs.5,80,000/- to the claimants respectively in the said MCOP cases. Totally Rs.1,31,71,200/- as compensation was awarded by the Tribunal. Challenging the compensation awarded Rs.71,30,000/- granted by the Tribunal in M.C.O.P.No.114/2016, the appellant insurance company filed this Civil Miscellaneous Appeal.

3. The appellant/second respondent resisted the claim petition contending that at the time of accident, the driver of the fourth respondent had no valid driving licence and the deceased Ramesh Thantri also had no driving licence. Hence, the appellant is not liable to pay compensation to the claimants. The averments relating to the age, occupation and income of the deceased person are false and hence, they prayed for dismissal.



C.M.A.(MD).No.229 of 2020

4. Before the Tribunal, on the side of the claimants, P.Ws.1 and 2 were examined and Exs.P1 to P35 were marked and on the side of the respondents, no witness was examined and no document was marked.

5. Finding of the Tribunal:

The Tribunal, after considering the oral and documentary evidence, came to the conclusion that the occurrence took place due to the rash and negligent driving of the fourth respondent's driver and awarded the compensation under the following heads:-

<i>M.C.O.P.Nos.</i>		<i>114/2016 (death Ramesh Thantri)</i>	<i>115/2016 (death Usha Thantri)</i>	<i>116/2016 (death minor Adithya)</i>
<i>Sl. No.</i>	<i>Heads</i>	<i>Amount in Rupees</i>	<i>Amount in Rupees</i>	<i>Amount in Rupees</i>
1	Loss of Future Income	Rs.70,00,000/-	Rs.53,31,200/-	Rs. 4,50,000/-
2	Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	Rs. 15,000/-
3	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	Rs. 15,000/-
4	Loss of love and affection	Rs. 1,00,000/-	Rs. 1,00,000/-	Rs. 1,00,000/-
Total		Rs.71,30,000/-	Rs.54,61,200/-	Rs. 5,80,000/-
Overall Compensation		Rs.1,31,71,200/-		

Assailing the said award in M.C.O.P.No.114/2016, the present appeal has been filed by the Insurance Company only on the aspect of “quantum”.



C.M.A.(MD).No.229 of 2020

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6. Submission of the learned counsel for the Appellant:

According to the appellant/Insurance Company, the fixation of Rs. 6,00,000/- as annual income of the deceased is baseless and without any supporting documents. The Tribunal is not justified in granting a sum of Rs. 70,00,000/- towards future loss of income. The grant of Rs.1,00,000/- towards loss of love and affection is very much against the judgment of the Hon'ble Apex Court in *Pranay Sethi's case*. The addition of 25% towards loss of future prospects, deduction of only 1/3rd towards personal expenses and the multiplier followed are not in consonance with the law of the land. In any event, the grant of Rs.71,30,000/- is excessive and arbitrary and the same is liable to be reduced.

7.Submission of the learned counsel for the respondents:

Per contra, the learned counsel appearing for the respondents/claimants argued that the impugned award awarding the aforesaid compensation is well reasoned and it requires no interference and therefore, this Civil Miscellaneous Appeal is liable to be dismissed.



C.M.A.(MD).No.229 of 2020

8. Heard the learned counsel for the appellant/Insurance Company and the learned counsel appearing for the respondents/claimants and perused the materials available on record.

9. Since the appellant insurance company filed this appeal only relating to the quantum, this Court does not go into the merits on the negligence and other aspects.

10. The following points arise for consideration of this appeal:

10.1. Whether the appellant insurance company made out the case for reduction of compensation?

10.2. Whether the compensation granted is in accordance with law?

11. Discussion on quantum:

The evidence of P.W.1, the mother of Ramesh Thantri is that the deceased Ramesh Thantri was a B.E. Graduate. To prove the same, his degree certificate was marked under Ex.P10. He was running a textile company viz., Euro Tex (Firm Registration Certificate/Ex.P12) along with his wife Usha Thantri. To prove the same, the registration certificate had been produced and marked under Ex.P12. Further, her son was an income tax assessee. She



C.M.A.(MD).No.229 of 2020

produced the income tax returns of her deceased son for the period of 2011-12, 2012-13, 2013-14 and 2014-15 under Exs.P14 to Ex.P17 respectively. The textile run by his son and daughter-in-law has been closed. To prove the same, Ex.P33 is produced. From Ex.P33, it is clear that the account has been closed due to the death of Ramesh Thantri. The income tax returns submitted by Ramesh Thantri for the assessment year 2015-16 is marked as Ex.P34. Hence, the Tribunal has rightly taken a sum of Rs.6,00,000/-per annum for the purpose of computing the compensation.

11.1. Calculation of the amount:

As per the *Pranay Sethi case*, adding 25% towards future prospects and deducting 1/3 towards personal expenses is to be taken and further, as per the *Sarla Verma case*, the Tribunal has adopted multiplier '14' and the same is calculated as follows:

$$[\text{Rs.}6,00,000/- + \text{Rs.}1,50,000/- (25\%)] = \text{Rs.}7,50,000/-$$

$$[7,50,000 - 2,50,000 (1/3)] = \text{Rs.}5,00,000/-$$

$$\text{Loss of Income } [\text{Rs.}5,00,000/- \times 14] = \text{Rs.}70,00,000/-$$

11.2. The non pecuniary damages as per the Pranay Sethi case is calculated as follows:-



C.M.A.(MD).No.229 of 2020

<i>Heads</i>	<i>Amount in Rupees</i>
Loss of Estate	Rs. 15,000/-
Funeral Expenses	Rs. 15,000/-
Loss of love and affection	Rs. 1,00,000/-

11.3. The claimants have established their case through the documents.

The quantum appears to be reasonable and hence, we are of the considered view that the compensation and the apportionment awarded by the Tribunal is just and fair and does not require any interference.

12.Conclusion:

For the foregoing reasons, the compensation awarded by the Tribunal to the claimants under various heads are enumerated hereunder:-

<i>M.C.O.P.No. 114/2016 (death Ramesh Thantri)</i>		
<i>Sl. No.</i>	<i>Heads</i>	<i>Amount awarded by the Tribunal</i>
1	Loss of Future Income	Rs.70,00,000/-
2	Loss of Estate	Rs. 15,000/-
3	Funeral Expenses	Rs. 15,000/-
4	Loss of love and affection	Rs. 1,00,000/-
Total		Rs.71,30,000/-

13. Accordingly, this Civil Miscellaneous Appeal is dismissed. The compensation awarded in M.C.O.P.No.114 of 2016 on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Karur, dated 19.03.2018,



C.M.A.(MD).No.229 of 2020

is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs within a period of four weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit being made, the major claimants are permitted to withdraw their share as apportioned by the Tribunal, with accrued interests and costs. Further, the Tribunal is directed to deposit the share of the minor claimant in any one of the nationalised banks, as fixed deposit under the cumulative deposit scheme, till the minor attains majority and the second respondent is permitted to withdraw interest once in three months. The minor claimant on attaining majority is permitted to withdraw his share. No costs. Consequently, the connected Miscellaneous Petition is closed.

[V.B.S.,J.] [K.K.R.K.,J.]
19.02.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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C.M.A.(MD).No.229 of 2020

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- 1.The Motor Accident Claims Tribunal
(Principal District Judge),
Karur.
- 2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD).No.229 of 2020



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C.M.A.(MD).No.229 of 2020

V.BHAVANI SUBBAROYAN,J.

and

K.K.RAMAKRISHNAN,J.

akv/sbn

C.M.A.(MD).No.229 of 2020

and

C.M.P.(MD).No.3542 of 2020

Dated:19.02.2024