



C.M.A(MD).No.517 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated 01.08.2024

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THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.517 of 2018
and CMP(MD).No.6087 of 2018

The Branch Manager
Sri Ram General Insurance Company Ltd.,
Having Office at 30, Hake Road
Chinnachokkikulam
Madurai Town
Madurai District

...Appellant/Respondent No.2

vs.

1.Latha Maheswari (died)

2. Anusha

3. Soundarya @ Yasmin

4. Sara

5.Alagarsamy

6.Anandhi (died)

...Respondents 2 to 6/Petitioners 2 to 6

7.Suresh

....Respondent No.7/Respondent No.1



C.M.A(MD).No.517 of 2018

WEB COPY (1st respondent died and minor respondents 2 to 4 are declared as major vide Court order dated 15.09.2022)

(6th respondent died as per memo in USR.No.707, dated 11.02.2019 and the same is recorded vide Court order dated 01.08.2024)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Sivagangai in MCOP.No.87 of 2016 dated 13.02.2017.

For Appellant : Mr.D.Sivaraman

For R2 to R4 : Mr.R.Suriyanarayanan

R5 & R7 : No appearance

R1 & R6 : died.

JUDGMENT

The instant appeal has been filed by the insurance company challenging the award passed in MCOP.No.87 of of 2016 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Sivagangai primarily on the ground of quantum.

2. According to the claimants, the deceased was working as an Engineer abroad and he was earning a sum of Rs.1,75,000/- per month. He was aged about 46 years on the date of the accident. They have

2/8



C.M.A(MD).No.517 of 2018

claimed a compensation of Rs.50,00,000/-.

WEB COPY

3.The Insurance Company had filed a counter disputing the avocation of the deceased and the overall claim made by the claimants.

4.The Tribunal after considering the evidence on record, arrived at a finding that there is no proof on the side of the claimants to the effect that the deceased was earning a sum of Rs.1,75,000/- per month. Considering the fact that the deceased was working abroad with technical qualification, the Tribunal had proceeded to fix the notional income of Rs.20,000/- per month. Applying the multiplier of 13 and after deducting 1/3rd towards personal expenses, fixed a quantum of compensation of Rs.23,40,000/- under the head of loss of income. The Tribunal has awarded a sum of Rs.5,000/- towards transport charges, Rs.25,000/- towards funeral expenses, Rs.2,80,000/- towards loss of love and affection and totally, a sum of Rs.26,50,000/- was awarded. Challenging the same, the present civil miscellaneous appeal has been filed.

5.The learned counsel for the appellant had raised a strong objection with regard to the fixation of notional monthly income at Rs.20,000/- per month, that there is no proof whatsoever from the side of



C.M.A(MD).No.517 of 2018

WEB COPY

the claimants. He had further contended that there are no records to show that the deceased was working abroad after 2009 till the date of the accident. Therefore, the Tribunal was not right in fixing the notional monthly income at Rs.20,000/- per month. In such circumstances, he prayed for modification of the award passed by the Tribunal.

6.Per contra, the learned counsel for the respondents/claimants had contended that the victim was having technical qualification and he was working abroad. Considering the age, he is a senior technician, the Tribunal had fixed at Rs.20,000/- as notional monthly income. But, the Tribunal has not added 40% towards future prospects. Hence, he prayed for enhancement of award.

7.I have considered the submissions made on either side and perused the material records.

8.There are records to show that the deceased is a technically qualified person and considering the age, he is a senior technician. Exhibits P9 to P14 have been filed to establish that the deceased was working abroad atleast upto 2009. Therefore, this Court is inclined to fix the notional monthly income at Rs.15,000/- per month and add 25 %



C.M.A(MD).No.517 of 2018

WEB COPY

towards future prospects. Considering the age of the deceased, the correct multiplier is 13. Since there are three children and dependent parents, $1/4^{\text{th}}$ has to be deducted towards personal expenses.

9.The deceased had left his wife, three minor children and two parents. Out of them, the mother had passed away.

10.In view of the above discussions, the quantum of compensation is re-assessed as follows:

Monthly Income	= Rs.15000/-
Add: 25% future prospects (15000+ 25/100)	= Rs. 3750/-

	Rs,18,750/-
Less: $1/4^{\text{th}}$ personal expenses (18750x $1/4$) =Rs. 4688/- (Rs.18750-Rs.4688/-)	= Rs. 14,062/-
Loss of monthly income (Rs.14,062/- x12x13)	Rs. 21,93,672/-
Funeral expenses	Rs. 25,000/-
Loss of love and affection	Rs. 2,80,000/-
Transport charges	Rs. 5,000/-
Total	Rs. 25,03,672/-

11.In view of the above said deliberations, the total compensation of Rs.26,50,000/- is hereby modified and reduced to Rs.25,03,672/-. The



C.M.A(MD).No.517 of 2018

WEB COPY

said amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of realization.

12.The order of pay and recovery passed by the Tribunal is hereby confirmed. The minor claimants are declared as major. The first respondent /first claimant and the sixth respondent/ sixth claimant have passed away. Therefore, the claimants 2 to 4 shall be entitled to withdraw Rs.7,00,000/- each along with interest. The 5th respondent shall be entitled to withdraw Rs.4,03,672/- along with interest.

13.In the result, this Civil Miscellaneous Appeal is partly allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petition is closed.

01.08.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No



C.M.A(MD).No.517 of 2018

WEB COPY

To

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Sivagangai

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD).No.517 of 2018

R.VIJAYAKUMAR,J.

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C.M.A(MD)No.517 of 2018
and CMP(MD).No.6087 of 2018

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