



C.M.A.(MD)No.358 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD)No.534 of 2018
and
CMP(MD)Nos.6281 of 2018 & 3375 of 2022

The Oriental Insurance Company Limited,
Rep. by its Divisional Manager,
Divisional Office,
D.D.J.Complex Near,
Vadaseri Bus Stand, Vadaseri,
Nagercoil.

.. Appellant/ 3rd Respondent

Vs.

1.N.Sunil Kumar

2.Deepa

.. Respondents 1&2/Petitioners 1&2

3.A.Maheen Abubakkar

.. 3rd Respondent/1st Respondent

4.C.Rajagopal

.. 4th Respondent/ 2nd Respondent

5.S.M.Seethalakshmi

.. 5th Respondent/4th Respondent.

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award of Rs.56,21,000/- (Rupees Fifty Six Lakhs and Twenty One Thousand only) dated 03.01.2018 passed in



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MCOP.No.35/2016 on the file of the Motor Accident Claims Tribunal
cum I-Additional Sub Court, Nagercoil.

For Appellant : Mr.E.Chandrasekaran
For Respondent : Mr.S.Jeyakumar for R1 & R2

JUDGMENT

(Judgment of the Court was delivered by P.VELMURUGAN, J.)

The Insurance company filed this Civil Miscellaneous Appeal against the award made in M.C.O.P.No.35 of 2016, dated 03.01.2018, on the file of the Motor Accidents Claims Tribunal Judge(I-Additional Subordinate Judge),Nagercoil.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The brief facts of the case is that the deceased the deceased was pillion rider and the 5th respondent herein was riding a Honda Activa motor cycle bearing Registration No.TN74 R 2225 and when they were was nearing the Christopher Colony turning, the 3rd respondent driver of



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the offending vehicle Lorry bearing Registration No.RN 04 4145 came from behind in a rash and negligent manner without raising horn sound and dashed against the deceased vehicle due to which the claimants' daughter died on the spot. A case was also registered by the Nagercoil Traffic Wing Police. Since the 4th respondent herein, owner of the Lorry was insured with the appellant, as an insurer, the appellant is liable to pay compensation to the respondents 1 and 2.

4. The accident and the death of the deceased due to the accident is also admitted by the appellant. The respondents 1 & 2 are the legal heirs of the deceased is also admitted. The deceased completed 12th Standard and waiting for the admission in the professional College like, Engineering Courses, are admitted. Since the deceased succumbed to accidental injury, the Nagercoil Traffic Investigation Wing Police registered a case in Crime No.78/14 under Section 279, 337 & 304(A) IPC against the Lorry driver/3rd respondent herein. At the time of accident, the deceased was a spinster. The Tribunal, after the enquiry, awarded a sum of Rs.56,21,000/- as compensation. However, the appellant has not disputed the accident, liability and insurance, but the



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appellant challenged the quantum alone.

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5. The learned counsel for the appellant vehemently objected the quantum of compensation. He submitted that at the time of the accident, the deceased was just completed 12th Standard and waiting for the Engineering admission and even no employment is proved and no income also proved. The Tribunal went to the extent of fixing Rs.30,000/- as notional monthly income and applied multiplier at 18 and also knowing fully well that the deceased was not employed, her future prospects also fixed as 40% and further the Tribunal awarded Rs. 10,00,000/- for love and affection. Therefore, he is mainly questioning these three heads regarding the quantum of compensation.

6. The learned counsel for the respondents 1 & 2 herein would submit that since the deceased had secured 1114 marks in her 12th Standard examination and also waiting for the admission in the professional Course. If she got the admission and completed the studies, she would definitely get good job and get minimum Rs.1,00,000/- per month. By considering these facts, the Tribunal has fixed a sum of



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Rs.30,000/- per month as notional income. There is no perversity in the fixation of monthly income, adopting the multiplier and also the future prospects. Hence, according to him, the award passed by the Tribunal is just compensation.

7. As far as the quantum of compensation is concerned, admittedly, the deceased was only a spinster. After completion of the 12th Standard, she was waiting for the admission in the professional course. However, she died due to the accident and though the award of compensation cannot be compensate to her life sufferings, however, considering the fact that since she is unemployed, this Court feel that Rs.15,000/- would be appropriate for fixing as notional monthly income. Considering the brightness in the studies and her date of birth is 04.06.1996 and on the date of accident ie.,on 21.06.2014, the deceased is 18 years, which was not disputed and hence, the proper multiplier is 18. Since the deceased is not in employment either in the Government undertaking or in private employment, as per the decisions of the Hon'ble Supreme Court in the case of *National Insurance Company Limited .vs. Pranay Sethi and others reported in 2017(2) TNMAC 609 (SC)*, 40% of the income is



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added towards future prospects. Since the deceased died as a spinster, 50% of the income is deducted for personal expenses and hence, the compensation under the head loss of income has to be fixed as under:

Loss of Income:

[Age of the deceased is 18 years]	
Notional monthly income	: Rs.15,000/-
Add:Future Prospects at 40%	
[15,000*40/100]	: Rs.6,000/-

	Rs.21,000 /-

Less: Personal Expenses at 1/2 th	
[21,000 x 1/2]	: Rs. 10,500/-

	Rs. 10,500 /-

Annual contribution to the family
[Rs.10,500/- x 12] : Rs.1,26,000 /-

Multiplier - 18 : Rs.1,26,000 x 18= Rs.22,68,000/-

Therefore Loss of Income : **Rs.22,68,000/-.**

8. As far as the love and affection is concerned, this Court is of the view that each of the claimants are entitled only a sum of Rs.40,000/- each, totally, Rs.80,000/-. On overall consideration, the compensation awarded under the other heads is reasonable and hence confirmed. Thus the compensation is modified as follows:



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Sl. No	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed, enhanced or granted
1	Loss of income	45,36,000/-	22,68,000/-	Reduced
2	Filial Consortium	40,000/-	40,000/-	Confirmed
3	Loss of Estate	15,000/-	15,000/-	Confirmed
4	Transportation charges	10,000/-	10,000/-	Confirmed
5	Damages to clothes	5,000/-	5,000/-	Confirmed
6	Funeral Expenses	15,000/-	15,000/-	Confirmed
7	Love and Affection	10,00,000/-	80,000/-	Reduced
Total		Rs.56,21,000/-	Rs.24,33,000/-	

9. In fine, the Civil Miscellaneous Appeal is partly allowed and the award amount is reduced from Rs.56,21,000/- to Rs.24,33,000/- with interest at the rate of 7.5% pa from the date of claim petition till the date of realisation. The appellant Insurance Company is directed to deposit the modified award amount with accrued interest and costs, less the award amount, if any already deposited, within a period of eight (8) weeks from the date of receipt of a copy of this order. The appellant Insurance Company is at liberty to withdraw the excess amount already deposited, if any.



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10. On such deposit, the respondents 1&2 / claimants 1&2 are entitled to withdraw the aforesaid amount together with interest and costs as per the apportionment fixed by the Tribunal, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal.

11. With the above modifications, this Civil Miscellaneous Appeal is partly allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

(P.V., J.) (K.K.R.K., J.)
05.09.2024

NCC:Yes/No
Index:Yes/No
PJJ

To
1. The I-Additional Sub Judge, Nagercoil.

2. The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.



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and
K.K.RAMAKRISHNAN, J.

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