



C.M.A(MD)No.753 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.06.2024**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.753 of 2018
and
C.M.P(MD)No.3713 of 2019

The Oriental Insurance Company Limited,
Divisional Office,
2nd Floor, 4-Promenade Road,
Cantonment, Trichy-1.

... Appellant/2nd Respondent

Vs.

1.Saroja

2.Sangan

... Respondents/Petitioners 1&2

3.V.Umarani

... Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside the award of Rs.19,89,000/- (Rupees Nineteen Lakhs Eighty Nine Thousand only) passed in M.C.O.P.No.412 of 2013, dated 01.08.2016 on the file of the Motor Accident Claims Tribunal cum Sub Judge, Kulithalai.

For Appellant : Mr.C.Jawahar Ravindran

For Respondents : No Appearance



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JUDGMENT

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The present appeal is filed by the Insurance Company challenging an award passed in M.C.O.P.No.412 of 2013 on the file of Motor Accident Claims Tribunal cum Sub Judge, Kulithalai primarily on the ground of quantum.

2. The parents of the deceased have filed the claim petition seeking compensation for the death of their son who was 22 years old at the time of his accident. The deceased person was a diploma holder in Mechanical Engineering. The tribunal has taken the notional monthly income at Rs. 9,000/- per month and has added 50% towards future prospects. The tribunal has deducted 1/3rd towards personal expenses and totally, an award of Rs.19,89,000/- has been awarded. Challenging the said award, the present appeal has been filed.

3. According to the learned counsel appearing for the appellant, the deceased was not in any permanent employment and therefore, his future prospects should have been fixed only at 40% not 50%. He further contended that the deceased being a bachelor, the personal expenses



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should have been deducted at 50% and not as 1/3rd. Hence, he prayed for re-assessing the quantum of compensation awarded by the tribunal.

4. Though the claimants have been served, they have chosen not to appear either in person or through counsel.

5. This Court has anxiously considered the submissions made by the learned counsel appearing for the appellant and proceeds to pass the following order.

6. As rightly contended by the learned counsel appearing for the appellant, the deceased was not employed. Therefore, the future prospects should not have been added 50% and it should have been fixed only at 40%. Admittedly, the deceased was a bachelor and the claimants are the parents. Therefore, the personal expenses should have been deducted at 50%. Based on the above said findings, this Court proceeds to re-assess the award amount as follows:

$9,000 \text{ (monthly income)} + 3600 \text{ (future prospects)} = 12,600 / 2$
 $\text{(personal expenses 50\% deduction)} = 6,300/-$

$\text{Loss of income } (6,300 \times 12 \times 18) = 13,60,800/-$



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Loss of love & affection (40,000 x 2) =	80,000/-
Funeral expenses =	25,000/-
Loss of estate =	15,000/-

Total	= 14,80,800/-

7. The award of the tribunal is modified from Rs.19,89,000/- to Rs.14,80,800/-. The reduced award amount shall be shared equally by the claimants. The excess amount, if any, deposited by the appellant Insurance Company, shall be refunded along with accrued interest.

8. The Civil Miscellaneous Appeal is allowed to the extent as stated above. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

06.06.2024

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

1.The Motor Accident Claims Tribunal
cum Sub Judge,
Kulithalai.



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

R.VIJAYAKUMAR,J.

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Order made in
C.M.A(MD)No.753 of 2018

06.06.2024