



CMA.No.266 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.266 of 2021

and

CMP.No.1802 of 2021

The Branch Manager,
M/s. United India Insurance Company Ltd.,
Branch Office – 3, 91, Kamarajar Salai,
Madurai – 625 009.

...Appellant

Vs.

1. Zarin Begam (Died)
2. Ayesha Begam
3. Arshiya
4. Jayathum Bee
5. G.Saratha
6. Magabup Basha

(R6 brought on record as LR of the deceased R1, vide order dated 21.03.2024 made in CMP.No.19850/2021 in CMA.No.266/2021.)

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, challenging the judgment and decree dated 07.09.2019 made in MCOP.No.926 of 2018 on the file of the Motor



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Accidents Claims Tribunal, Additional District Judge, Krishnagiri.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.S.P.Yuaraj, for R2 to R4 & R6
: Unclaimed, for R5

JUDGMENT

Challenging the judgment and decree dated 07.09.2019 made in MCOP.No.926 of 2018 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Krishnagiri, the appellant has come up with this appeal.

2. It is the case of the claimants that, on 16.02.2015 at about 22.45 hours, when the deceased Syed Bahideen was proceeding from Sokkadi towards Coimbatore in the Pulsar Motor cycle bearing Regn.No.TN-24-Q-4033 along with one Ranjith as a pillion rider, at that time, an Innova car bearing Regn.No.TN-59-AH-9600, owned by the 5th respondent insured with the appellant herein, driven by its driver in a rash and negligent manner came in the opposite direction and dashed the above said two wheeler in which the deceased Syed Bahideen was travelling, due to which, he sustained grievous injuries and succumbed to the same.



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Thereby, the claimants, who are the dependents of the deceased Syed Bahideen filed a claim petition in MCOP.No.926 of 2018 claiming a compensation of Rs.60,00,000/-. Before the Tribunal, the claimants examined two witnesses viz. P.W.1 and P.W.2 and marked exhibits P.1 to P.16 and on the side of respondents, no witnesses were examined and no documents were marked. After trial, the Tribunal, on appreciation of oral and documentary evidence awarded a sum of Rs.31,34,000/- towards compensation for the death of the deceased Syed Bahideen. Aggrieved by the same, the appellant/insurance company has come up with this appeal.

3. Learned counsel for the appellant/Insurance company submitted that the accident is of the year 2015 and at the time of accident, the deceased was an Engineering student and was studying 3rd year at Coimbatore, Hindustan College of Engineering and Technology and there are slim chances for his employment and being a student, no contribution was made by him to his family. While so, without any basis and document, the tribunal has fixed the notional income of the deceased at Rs.20,000/-, which is on the higher side and the compensation awarded under other heads are also on the higher side and the same has to



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necessarily be interfered with. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the respondents 2 to 4 & 6 submitted that, by considering all the relevant documents, the Tribunal passed the present impugned award, which cannot be said to be erroneous and the quantum of compensation awarded by the tribunal is just and reasonable. Learned counsel further submitted that, the issue involved in the present appeal is no longer *res integra* and the same has been decided by the Apex Court in the case of ***Basanti Devi & Another Vs. Divisional Manager, New India Assurance Co. Ltd. & Others*** reported in ***CDJ 2021 SC 1183 (C.A.Nos.7435-7436 of 20121 dated 06.12.2021)***. Accordingly, he prayed for dismissal of the appeal.

5. Heard learned counsel on either side and perused the material documents placed on record.

6. The factum and manner of the accident is not in dispute and therefore, this Court is not entering into the said aspect.



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7. There is no quarrel that the deceased was an Engineering student and was doing 3rd year at Coimbatore, Hindustan College of Engineering and Technology at the time of accident and as on the date of the accident, the deceased was not earning, but, once he completes his studies, the career prospects of the deceased cannot be said to be not bright. In this regard, this Court perused the decision of the Hon'ble Apex Court in the case of **Basanti Devi** (*stated supra*) relied upon by the learned counsel for the respondents 2 to 4 & 6, wherein, the Apex Court has held as hereunder:

“

3. The deceased, at the time of accident, was 25 years of age. The deceased was a Bachelor of Engineering in Computer Technology. The Motor Accidents Claims Tribunal, Ranchi (hereinafter referred to as the "Tribunal") assessed the income of the deceased for the purpose of awarding the future loss of income @ 20,000/- per month and thereafter adding 40% towards future prospects and thereafter deducted 50% towards his own personal expenditure as he was a bachelor, the Tribunal arrived at a total figure of Rs.1,68,000/- p.a. for loss of dependency and thereafter applying the multiplier of 18 awarded Rs.30,24,000/- towards future loss of income. The Tribunal also awarded other amounts under the Conventional Heads. Thus, in all, the Tribunal awarded



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a total sum of Rs.30,54,000/-. However, as the Claimants already received a sum of Rs.50,000/- as interim compensation under Section 140 of the Motor Vehicles Act, the Tribunal deducted the same and awarded a total sum of Rs.30,04,000/- (Rs.30,54,000-50,000) as compensation for the death of the deceased. In an appeal preferred by the Insurance Company, the High Court has reduced the amount of compensation from Rs.30,54,000/- to Rs.15,82,000/-. The High Court has also dismissed the appeal preferred by the Claimants which was filed to enhance the amount of compensation.

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5. Having heard the learned counsel appearing for the respective sides and considering the fact that the deceased at the time of death/accident was aged 25 years of age and was a Bachelor of Engineering in Computer Technology, we are of the opinion that the Tribunal rightly considered the income of the deceased at the time of death at least @ 20,000/- p.m. The same was not required to be interfered with by the High Court. The submission on behalf of the respondent - Insurance Company that as no documentary evidence was produced and/or laid in support of the documentary evidence produced on record that the deceased was earning Rs.20,000/- per month and therefore the Tribunal ought not to have assessed the income of the deceased at Rs.20,000/- per month is concerned, assuming that there was no supporting evidence laid, in that case also considering the potentiality to earn, as the deceased was a Bachelor of Engineering in Computer Technology, his income can safely be



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assessed at-least at Rs.20,000/- per month. As such we are in complete agreement with the view taken by the Tribunal. The High Court has committed a grave error in reducing the compensation from Rs.30,54,000/- (Rs.30,04,000/-) to Rs.15,82,000/-.

5.1 In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court insofar as allowing the appeal preferred by the Insurance Company and reducing the amount of compensation from Rs.30,54,000/- to Rs. 15,82,000/- is required to be quashed and set aside and is, accordingly, quashed and set aside. The impugned judgment and order passed by the High Court dismissing the appeal preferred by the original Claimants which was filed to enhance the amount of compensation was rightly dismissed by the High Court. We concur with the same.

6. In view of the above and for the reasons stated above, the present appeal arising out of the impugned judgment and order passed by the High Court partly allowing the appeal preferred by the respondent-Insurance Company and reducing the amount of compensation from Rs. 30,54,000/- to Rs. 15,82,000/- is hereby quashed and set aside and we restore the judgment and award passed by the Motor Accidents Claims Tribunal, Ranchi awarding the compensation at Rs.30,54,000/-. The appeal preferred by the original Claimants dismissing their appeal for enhancement is hereby dismissed.

The Appeals stand disposed of in the above terms.”



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8. The Hon'ble Apex court had in similar circumstances fixed the notional income of the deceased as Rs.20,000/- and the present case also stands on similar footing and the tribunal had rightly appreciated the same and has fixed the notional income of the deceased as Rs.20,000/-, which is based on proper reasoning and the same does not warrants interference of this Court.

9. Accordingly, this Civil Miscellaneous Appeal stands dismissed, confirming the impugned award dated 07.09.2019 passed by the Tribunal in MCOP.No.926 of 2018 and the Appellant-Insurance company is directed to deposit the said amount to the credit of MCOP.No.926 of 2018 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount to the claimants directly to their bank accounts through RTGS within a period of two (2) weeks thereafter. Insofar as the share of the 1st respondent/mother of the deceased, who is since deceased is concerned, the same shall be equally



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apportioned in between the Legal heirs of the deceased 1st respondent.

There shall be no order as to costs in this appeal. Consequently, the connected Miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

The Motor Accidents Claims Tribunal, Additional District Judge,
Krishnagiri.

M.DHANDAPANI, J.

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