IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025
CORAM :
THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D. MARIA CLETE

C.M.A.No.341 of 2025

The Manager
Reliance General Insurance Company Limited
Motor Third Party Claims, No.6, Haddows Road
Reliance Towers, Chennai – 600 006. .. Appellant

Vs.

1. A.Priyanka
2. J. Jessica (Minor)
3. J. Jeffee (Minor)
4. Mary Manoranjitham
5. M.David Durairaj
6. M.Thanikachalam .. Respondents

Prayer: Appeal filed under Section 173 of the Motors Vehicles Act, 1988 against the judgment and decree dated 09.08.2024 made in M.C.O.P.No.7501 of 2016 on the file of the MACT, Special Sub Court II, Court of Small Causes, Chennai.

For the Appellant : Mr.R.Sree Vidhya

For the Respondents : Mr.R.Keynes Radhakrishnan

JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This civil miscellaneous appeal arise out of a common order passed by the Special Sub-Judge No.II, Motor Accidents Claim Tribunal, Chennai, dated 09.08.2023 made in M.C.O.P.No.7501 of 2016 and etc. batch. Though it was a common award for four MCOPs, insofar as M.C.O.P.No.7501 of 2016 alone, this appeal has been filed by the appellant Insurance Company.

2. Due to the motor accident that took place on 27.10.2016, one *Jacob Jesuraj* died, whose legal heirs, who are the claimants, filed M.C.O.P.No.7501 of 2016 before the Tribunal. The Tribunal, having gone through the facts and after appreciating the evidences, has awarded sum to the extent of Rs.42,62,000/-.

3. While calculating the loss of consortium, the monthly salary of the deceased was taken into account as Rs.20,000/- per month. That is the major grievance according to the learned counsel appearing for the appellant Insurance Company.

4. Though this appeal is coming up today for admission, *Ms.R.Sree Vidhya*, learned counsel for the appellant and *Mr.R.Keynes Radhakrishnan*, learned counsel for the respondent claimants have made submissions that only in respect of fixing the monthly salary, since there has been a dispute, the Court may modify the order to that extent. If it is so, it would be agreeable for both parties.

5. We have gone through the award impugned.

6. The deceased was an electricals sub contractor. When that being so, whether the quantum of Rs.20,000/-, fixed as the earning of the deceased per month, is justified or not is the only question to be decided here.

7. Though the deceased was an income tax assessee and a Permanent Account Number has been entrusted to him, it seems that for the previous years, prior to the occurrence of the accident, no income tax returns were filed. Therefore, that was the objection raised by the appellant Insurance Company as to the arrival of the figures with regard to the earning of the deceased per month to the extent of Rs.20,000/-.

8. In this regard, we feel that even though income tax returns have not been filed by the deceased with regard to the work contract awarded to him, on behalf of the employer, witnesses have been examined and it is deposed before the Tribunal that work order has been given to the deceased and he has completed the work, for which, payment has been made.

9. Based on this factual matrix, fixation of a reasonable sum towards the monthly earning of the deceased may be justified, but,

at the same time, since it has been fixed at Rs.20,000/-, which according to the appellant side is on the higher side, we feel that it may be reduced slightly to Rs.19,000/- per month and based on which, if calculation is made, there may be some slight modification in the overall award amount that has been ordered by the Tribunal.

10. Resultantly, we feel that the following modifications may be required against the impugned order passed by the Tribunal. In the Head of "loss of dependency", the amount could be calculated as follows:-

i. Monthly income is Rs.19,000/-; Rs.19,000 x 40% is Rs.7,600/-; 3/4th of Rs.26,600/- is Rs.19,950/-. Therefore, Rs.19,950/- could be taken into account by applying the multiplier 16, which comes to Rs.38,30,400/-.

ii. Insofar as the other Heads, the same does not require any modification.

iii. Therefore the following ultimate calculation would be suffice to meet the ends of justice:-

Monthly Income	= Rs.19,000/-
Rs.19,000/- x 40%	= Rs.19,950/-
Rs.19,950/- x 12 x 16	= Rs.38,30,400/-

<u>Other Heads:-</u>

Loss of Consortium	= Rs.2,00,000/-
Funeral expenses	= Rs.15,000/-
Loss of Estate	= Rs.15,000/-
Total	= Rs.40,60,400/- with 7.5% interest.

11. Resultantly, the award impugned is modified to the aforesaid effect and accordingly, this civil miscellaneous appeal stands ordered. However, there is no order as to costs.

12. The modified amount as per this order shall be deposited, if not already deposited, by the appellant Insurance Company within a period of two months from the date of receipt of a copy of this order and on such deposit, it is open to the respondent claimants to withdraw the same and apportionate the amount as directed by the Tribunal. Consequently, C.M.P.No.2539 of 2025 is closed.

(R.S.K., J.) (A.D.M.C., J)
17.02.2025

Neutral Citation:Yes/No

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R. SUREH KUMAR, J.
AND
A.D. MARIA CLETE, J.

(drm)

C.M.A.No.341 of 2025

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