

(2012) 07 MAD CK 0009
In the Madras High Court
Case No : C.M.A. No. 734 of 2006

United India Insurance Co. Ltd.

APPELLANT

Vs

M. Nagamani and Others

RESPONDENT

Date of Decision : 17-07-2012

Acts Referred:

Citation : (2013) ACJ 1964

Hon'ble Judges : P. Devadass, J

Bench : Single Bench

Advocate : M.B. Gopalan, for the Appellant; S.S. Swaminathan, for the Respondent

Final Decision : Partly Allowed

Judgement

P. Devadass, J.—As against the quantum of compensation awarded, United India Insurance Co. Ltd. appealed. According to the learned

counsel for the appellant, as per the version of the claimants, the salary of the deceased itself was Rs. 5,000 p.m., however, the Tribunal had

adopted Rs. 7,500 p.m. The claim itself is for Rs. 5,00,000. However, the Tribunal had awarded more than that. The Tribunal awarded Rs.

10,000 towards loss of consortium and also Rs. 10,000 towards loss of love and affection to the claimant No. 1. It amounts to double

compensation.

2. However, it has been contended by the learned counsel for the claimants that as per the latest judgment of the Supreme Court, loss of future

prospects has also to be added, and if that is added, then the claimants are entitled to more amount. Although the claimants have claimed lesser

amount, on evidence, when the Tribunal found that they are entitled to more, the

Tribunal had awarded them more. There is no wrong in it.

3. The accident was on 5.7.2002. The deceased was a sculptor. He was then 26 years old. PW 3, Gopal, a colleague of his, deposed that his

friend had earned Rs. 5,000 per month. He is a professional. So, salary certificate will not arise. The Tribunal had accepted the said Rs. 5,000.

However, it had doubled it and made some calculations and ultimately, assessed his monthly income at Rs. 7,500 and taken the multiplier 18 and

deducted 1/3rd and accordingly calculated the loss of dependency.

4. It is to be noted that the deceased died at a young age, namely, 26 years. He supported a family consisting of 3 persons. In Smt. Sarla Verma

and Others Vs. Delhi Transport Corporation and Another, depending upon the age of the deceased, the Hon'ble Supreme Court directed adding

of 30 per cent, 50 per cent of salary towards loss of future prospects when the deceased had a stable job. Subsequently, in Santosh Devi Vs.

National Insurance Company Ltd. and Others,), the Hon'ble Supreme Court extended this to persons employed in the unorganised sectors,

private employment also.

5. Now, in view of Santosh Devi (supra), the said Rs. 7,500 per month can be maintained.

6. The claimant No. 1 has now become a widow because of the untimely death of her husband. She was granted Rs. 10,000 towards loss of

consortium. Again granting her Rs. 10,000 for loss of love and affection is not acceptable to us. So, the said Rs. 10,000 has to be deleted from the

award.

7. In the claim petition, the claimants have claimed Rs. 5,33,000. However, the Claims Tribunal had awarded them a total of Rs. 11,29,085.

8. It is the statutory duty of the Tribunal to award just compensation to road accident victims. In doing so, the Tribunal need not be guided by the

figures mentioned in the claim petition. Sometimes, in the claim petitions, the claimants are claiming elephantine amount. However, based on

evidence and the principles, the Claims Tribunal awarded a lesser amount. Sometimes, the claimants make their own calculation and claim a lesser

amount. But, on the basis of evidence and applying the law, the Tribunals arrive at a higher amount. Thus, the Tribunals need not be guided by the

figures mentioned in the claim petition. In the result, the civil miscellaneous

appeal is allowed in part. The claimants are awarded a total compensation of Rs. 11,19,085 together with interest at the rate of 9 per cent per annum from the date of original petition till deposit. They are permitted to withdraw the said modified amount, less the amount already withdrawn. The balance amount, namely, the disallowed portion Rs. 10,000 together with corresponding interest shall be returned to the appellant. Consequently, the connected miscellaneous petition is closed. No costs.