

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2015

CORAM :

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A. No. 1696 of 2015

and

M.P. No.1 of 2015

The National Insurance Co. Ltd.,
rep. by its Manager
Athur. ... Appellant/4th Respondent.

vs.

1. Maathi
2. Minor Peeran
3. Minor Chinnamadhayan
4. Minor Murugesan
(R2 to R4 minors are rep. by their
Mother and next friend
Maathi-R1) ... Respondents 1 to 4/Claimants.
5. S.R. Murugan
6. K. Manickam
7. S. Mathaiyan ... Respondents 5 to 7/ Respondents 1 to 3.

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.03.2014 made in M.C.O.P No.495 of 2009 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Bhavani, Erode District.

For appellant : Mr. S. Vadivel

JUDGMENT

The fourth respondent Insurer before the Tribunal is the appellant herein.

2. In this appeal, the Insurer is questioning the correctness of the award of compensation of Rs.7,10,000/- payable with interest at the rate of 7.5% on the question of quantum. The deceased was, on the date of accident, aged about 20 years as per Ex.P-5 Postmortem report and during the relevant point of time he was employed as Borewell Machine Operator. The Tribunal having regard to the age and nature of avocation of the deceased fixed his monthly income at Rs.6000/- per month and since the deceased was a bachelor

after deducting 50% towards his personal expenses, the monthly income was fixed at Rs.3000/- and Rs.36,000/- per annum and the Tribunal considering the age of the deceased as 20 years, adopted the multiplier of 18 and calculated the pecuniary loss to the claimants, who are the mother and minor brothers respectively, at Rs.6,48,000/.

3. The grievance raised herein by the learned counsel for the appellant is that the Tribunal has erred in taking into account the age of the deceased for fixing the multiplier, instead of the age of the mother, at 39 years. According to the learned counsel for the appellant, the Tribunal has awarded higher compensation for loss of dependency by adopting such multiplier.

4. This Court is not inclined to accept such contention raised herein in view of the well settled legal position regarding the proper multiplier to be adopted, laid down in the following judgments of the Hon'ble Supreme Court and the Division Bench of our High Court :

1. 2015 (1) TNMAC 814 (SC) larger Bench of Apex Court consisting of three judges - Munna Lal Jain and another V. Vipin Kumar Sharma and others.
2. 2013 (2) TNMAC 481 (SC) - M. Mansoor and another V. United India Co. Ltd., and another.
3. 2012 ACJ 2002 - Amrith Bhanu Shali V. National Insurance Co. Ltd., and others and
4. 2014 (1) TNMAC 244 (DB) High Court Madras - HDFC General Insurance Co. Ltd., V. Panjalai and others.

The three judges Bench in the decision reported in 2013 (1) TNMAC 481 (SC) - Reshma Kumar V. Madhan Mohan held that the multiplier is to be used with reference to the age of the deceased.

5. That being the legal position, the multiplier adopted by the Tribunal is in accordance with the same and cannot be found fault with. As there is no other ground made out to interfere with the impugned award, the appeal is not liable to be entertained.

6. In the result, the Civil Miscellaneous Appeal is dismissed at the stage of admission itself. The appellant Insurance Company is directed to deposit the entire award amount, with interest and costs, less the amount already deposited, within four weeks from the date of receipt of a copy of this order. On such deposit, the major claimants are entitled to withdraw the compensation amount with accrued interest and proportionate costs, by filing cheque petition. The claimants 2 to 4, being minors, their share shall be deposited in any one of the nationalised bank till they attain majority and the

first claimant/ mother, is permitted to withdraw the interest and cost accrued on the same, once in three months, directly from the Bank. No costs. Consequently, the connected M.P is closed.

avr

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

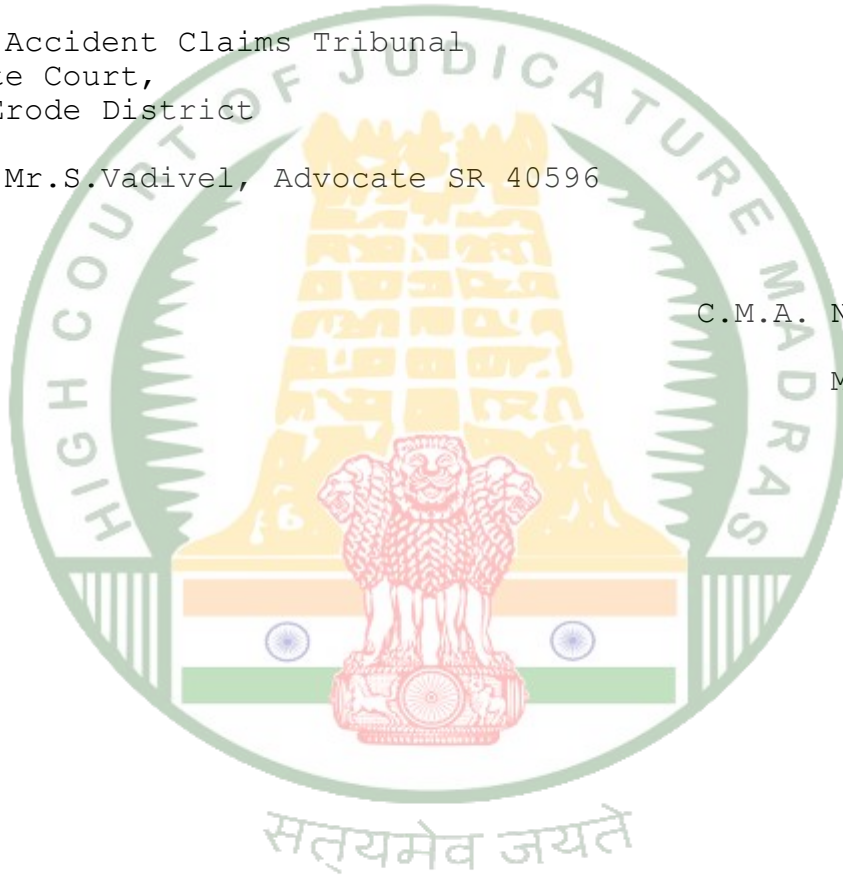
To

The Motor Accident Claims Tribunal
Subordinate Court,
Bhavani, Erode District

+ 1 cc to Mr.S.Vadivel, Advocate SR 40596

gr(co)
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