

In the High Court of Judicature at Madras

Dated : 23.6.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Civil Miscellaneous Appeal No.3410 of 2013
and M.P.Nos.1 of 2013 & 1 of 2015

The Branch Manager, M/s.National
Insurance Company Limited, Erode
Town & District.

...Appellant

Vs

1.Mrs.Maasilamani
2.Ms.Keerthika
3.Minor Shanmugakrishnan, rep.by
mother/guardian the first respondent
Mrs.Maasilamani
4.Mrs.Saraswathi
5.Mr.Rajendran

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988 against the order dated 19.12.2012 made in M.C.O.P.No.189 of 2010 on the file of the Motor Accidents Claims Tribunal (Third Additional District Court), Gobichettipalayam.

For Appellant : Mr.J.Chandran
For Respondents 1 to 4 : Mr.S.Rameshkumar
For Respondent-5 : Mr.V.P.Karthikeyan

JUDGMENT WAS DELIVERED BY V.RAMASUBRAMANIAN,J

This appeal is by the Insurance Company questioning the correctness

of an award passed by the Motor Accidents Claims Tribunal.

2. Heard Mr.J.Chandran, learned counsel for the appellant and Mr.S. Rameshkumar, learned counsel for the respondents 1 to 4.

3. In a road traffic accident that occurred on 17.3.2010, one Mr.Nithiyananthan died. His wife, two children and mother filed a claim petition in M.C.O.P.No.189 of 2010 claiming compensation in a sum of Rs.25 lakhs. By an award passed on 19.12.2012, the Tribunal granted a compensation in a sum of Rs.18,08,000/-. Aggrieved by the said award, the Insurance Company is on appeal.

4. The main challenge of the Insurance Company is to the quantum of compensation. The fact that it was a fatal accident and the fact that the accident occurred due to the rash and negligent driving of the vehicle in question, cannot be disputed.

5. The claimants contended that the deceased was employed as a supervisor in a oil mill. The certificate issued by the oil mill and the pay slip issued by the management were marked as Ex.P.15 and Ex.P.16. The deceased also had an identity card to show that he was a small time farmer and it was marked as Ex.P.13. Therefore, the Tribunal came to the conclusion that the deceased was earning a sum of Rs.13,000/- per month as seen from Ex.P.15 and Ex.P16. There was no contra evidence on the part of the Insurance Company. The Insurance Company was not able to demonstrate that Ex.P.15 and Ex.P.16 are not reliable. Hence, the fixation of income at Rs.13,000/- per month and deduction of 1/4th of the said amount for personal expenses are perfectly in order. Consequently, the fixation of

monthly income at Rs.9,750/- and the application of a multiplier of 14 for a person, who died at the age of 43, cannot also be taken exception to.

6. On all other aspects, this Court does not find any infirmity in the award of the Tribunal. The Tribunal has fixed Rs.40,000/- for each of the claimants towards loss of love and affection. This cannot be said to be very high. In the result, we do not find any reason to interfere with the award of the Tribunal.

7. Accordingly, the civil miscellaneous appeal is dismissed. No costs. Consequently, M.P.No.1 of 2013 is also dismissed.

8. It is stated that the Insurance Company has deposited 50% of the amount awarded by the Tribunal.

9. The Insurance Company is directed to deposit the balance 50% of the award amount within eight weeks from the date of receipt of a copy of this order. On such deposit being made by the Insurance Company, the respondents 1, 2 and 4 are permitted to withdraw their respective shares. The minor namely the third respondent's share shall be invested in a nationalised bank in fixed deposit and the investment shall be renewed from time to time till the minor attains majority. Therefore, M.P.No.1 of 2015 is ordered accordingly.

23.6.2015

Internet : Yes

RS

V.RAMASUBRAMANIAN,J
AND
T.MATHIVANAN,J

RS

To
The Motor Accidents Claims Tribunal (Third Additional District Court),
Gobichettipalayam.

CMA(NPD)No.3410 of 2013 &
MP.Nos.1 of 2013 & 1 of 2015

23.6.2015