

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 28.09.2016

CORAM:

THE HON'BLE MR. JUSTICE S. MANIKUMAR
AND
THE HON'BLE MR. JUSTICE N.ATHINATHAN

C.M.A.No.2118 of 2016
and
C.M.P.No.15312 of 2016

Divisional Manager
National Insurance Company Limited
I and II Floor, 1754-56,
Ganesh Complex
Monojeepa Street
Thanjavur District ..Appellant/2nd Respondent

Vs.

1.M.Manjula
2.Minor Mukesh
3.Minor Rajesh
4.Minor Kamalesh
5.S.Neelavathi
6.M.Selvaraj ...Respondents 1to6/Petitioners
7.The General Manager
The Thanjavur District
Co-operative Milk Production Society
Nanjikottai Road
Thanjavur.

Minors 2to4 represented by
their Mother Manjula as next
friend and Natural guardian
..7thRespondent/1st Respondent

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Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree, dated 7.4.2016 made in M.A.C.T.O.P.No.1 of 2016, on the file of Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court), Thiruvarur.

For Appellant : Ms.N.B.Surekha

JUDGMENT

(delivered by S.MANIKUMAR, J.)

Quantum of compensation of Rs.23,31,400/- with interest, at the rate of 7.5% per annum, from the date of claim, till realisation, awarded to the legal representatives of the deceased, is the only challenge in this appeal, on the ground that the Tribunal, has erred in fixing a higher income of Rs.15,600/-, for the purpose of computing the loss of contribution to the family. Therefore, there is no need to advert to the aspect of negligence and liability.

2. Short facts leading to the appeal are that, in the accident which occurred on 8.11.2012, a 38 years old man died. According to the legal representatives, by doing carpentry work, the deceased earned Rs.12,000/- per month. Wife, three minor children and parents of the deceased filed MCOP No.1 of 2016 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Thiruvavarur, claiming compensation of Rs.25,00,000/-. To prove the avocation and the income of the deceased, PW3-Mani (a) Prakasam examined on the side of the claimants, has deposed that the deceased was engaged carpentry work along with him and earned Rs.600/- to Rs.750/- per day. Since no documentary evidence was produced, the Tribunal fixed the monthly income of the deceased as Rs.12,000/- and added 30% towards future prospects. Thus the Tribunal determined a sum of Rs.15,600/- as income for the purpose of computing the loss of contribution to the family. Thereafter, the Tribunal deducted 1/4th towards the personal and living expenses of the deceased, applied multiplier 16, and computed the loss of contribution to the family as Rs.22,46,400/- (Rs.11,700 x 12 x 16).

3. That apart, the Tribunal has awarded a sum of Rs.10,000/- each to the respondents 1 to 4 herein/claimants, wife and minor children, under the head loss of love and affection and Rs.20,000/- to the parents of the deceased. The Tribunal has awarded a sum of Rs.25,000/- under the head funeral expenses. Altogether, the Tribunal has awarded a sum of Rs.23,31,400/- as compensation with interest, at the rate of 7.5% per annum from the date of claim till deposit.

4. Being aggrieved, the appellant herein/National Insurance Co. Ltd. is on appeal, with a prayer to reduce the award. Though Ms.N.B.Surekha, learned counsel for

the appellant submitted that the Tribunal has fixed a higher sum of Rs.12,000/- as monthly income and erred in adding 30% towards future prospects. The Tribunal also erred in selecting multiplier 16, instead of multiplier 15 and awarded excess compensation under the head loss of contribution to the family, this court is not inclined to accept the above contentions of the learned counsel for the insurance company, for the reason that, to provide food, shelter, clothing and to meet out the basic expenses, one requires a reasonable income. Electricity consumption charges, rate of essential commodities and other statutory taxes are on the rise. In the case on hand, the deceased is survived by a family, which comprises of parents, wife and three minor children and thus the Tribunal has correctly arrived at the monthly income and the multiplier.

5. Further, under the head loss of love and affection, compensation of Rs.10,000/- each alone has been awarded to the wife, three minor children and parents of the deceased, which is nothing but a pittance and that the Tribunal could have awarded Rs.1,00,000/- to the wife, under the head consortium Rs.50,000/-, higher compensation to the minor children and parents under head loss of love and affection. There is no award for transportation and conventional damages. Thus the overall quantum of compensation awarded to the legal representatives cannot be said to be a bonanza, windfall, warranting any reduction. Hence the civil miscellaneous appeal is liable to be dismissed.

In the result, the appeal is dismissed confirming the judgment and decree passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tiruvarur dated 7.4.2016 made in M.A.C.T.O.P.No.1 of 2016. The appellant-Insurance Company, is directed to deposit the award amount, with proportionate accrued interest and costs, less the statutory deposit, to the credit of M.A.C.T.O.P.No.46 of 2010, on the file of the Motor Accidents Claims Tribunal (Subordinate Court) Chidambaram, within a period of six weeks from the date of receipt of a copy of this order. The Tribunal is further directed to affix a copy of this judgment in the Notice Board of the Tribunal mentioning the name of the parties to M.A.C.T.O.P No.1 of 2016, and the disposal of the appeal filed by National Insurance Co. Ltd. The Tribunal is further directed to disburse the compensation amount, only after due verification and identity of the claimants/respondents herein. We wish to state that, there should be strict compliance. The share of the minors shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minors shall be paid to the guardian, once in three months, till they attain majority.

Deposit should be made within six weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

asr

To

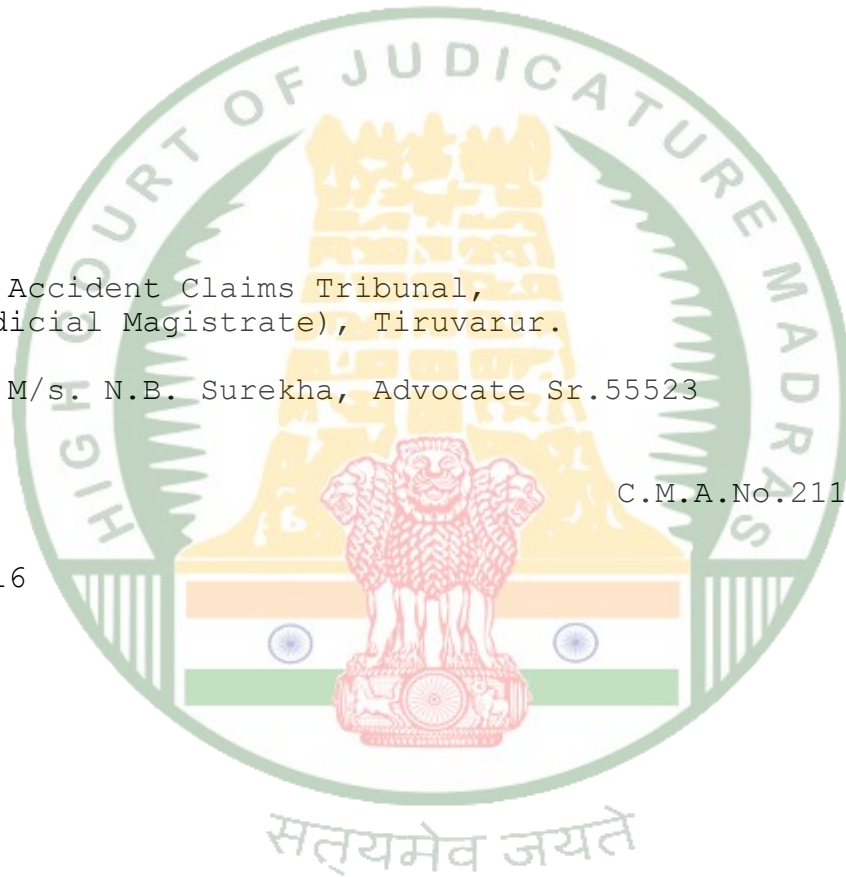
The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate), Tiruvarur.

+ 1 cc to M/s. N.B. Surekha, Advocate Sr.55523

MP (CO)

EU 05.12.16

C.M.A.No.2118 of 2016



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