

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.09.2016

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR  
and  
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

**C.M.A. No.2188 of 2016**  
**and C.M.P.No.15676 of 2016**

The Oriental Insurance Co. Ltd.,  
42/3, New Scheme Road,  
Pollachi - 642 001

.. Appellant

Vs.

1.Venkatachalapathy  
2.Shenbagam  
3.Muthukumar  
4.Arun

.. Respondents

Prayer: Appeal under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment passed by the Motor Accidents Claims Tribunal (II Additional District Judge), Tiruppur in MCOP No.1387 of 2013 dated 27.08.2014.

For Appellant : Mr.N.Vijayaraghavan

**JUDGMENT**

**(Order of the Court was made by S.MANIKUMAR, J.)**

The only issue raised in the instant appeal is whether the tribunal was right in taking 100% income, as future prospects, for computing the loss of earning. Deceased was an Assistant Manager (Agri Relationship) in HDFC Bank, Karur and according to the respondents / claimants, earned

Rs.20,000/- per month. He was a MBA Graduate. To prove the educational qualifications and income, respondents/claimants have marked Ex.P5-BBA-Provisional certificate, Ex.P6-MBA certificate copy, Ex.P7-Identity card issued by HDFC bank, Ex.P9 - Appointment order, Ex.P10-pay slip copy and Ex.P11-proof for salary and GPF, to the deceased. On the basis of the oral and documentary evidence, the tribunal determined the monthly income as Rs.17,598/-. Adding 100% income towards future prospects, the tribunal computed the annual income as Rs.4,22,352/-. Deceased was a bachelor and therefore, the tribunal deducted half of the income towards personal and living expenses. He was aged 24 years. Tribunal by applying '18' multiplier, computed the loss of contribution as Rs.38,01,168/-. In addition to the above, tribunal has awarded Rs.2,00,000/- for love and affection. Rs.50,000/- for funeral expenses and Rs.20,000/- for transportation. Altogether, the tribunal awarded a sum Rs.40,71,168/- as compensation with interest, at the rate of 7.5% per annum from the date of claim, till deposit. Being aggrieved by the quantum of compensation, the Oriental Insurance Company Limited, is on appeal.

2. At the outset, Mr.N.Vijayaraghavan, learned counsel for the insurance company submitted that he is not disputing the employment or monthly income determined by the tribunal. He has also made it clear that the quantum of compensation awarded under other heads is not challenged.

The only grievance of the insurance company is that the tribunal erred in adding 100% of the salary of the deceased towards future prospects and ought to have added only 50% under the said head.

3. Mr.N.Vijayaraghavan, learned counsel for the appellant submitted that the decision relied on by the tribunal in ***Vimal Kanwar and others Vs. Kishore Dan and Others, reported in 2013 ACJ 1441***, is a rare case, where the Hon'ble Apex Court has not considered the earlier judgments which held that only 50% of the income can be added under the head future prospects for the purpose of computing the loss of contribution to the family.

4. Though, Mr.M.Pa.Thangavel, learned counsel for the respondents/claimants, opposed the said contention and prayed to sustain the award, this Court is not inclined to accept the same. As rightly pointed out by the learned counsel for the insurance company, the Hon'ble Apex Court has consistently held that addition of 50% towards future prospects alone should be taken into consideration for computing the loss of contribution.

5. Thus, for the reasons stated supra, and accepting the contentions of the insurance company, this Court is inclined to reduce the percentage of income under the head future prospects to 50% and accordingly, compute

the loss of contribution to the family.

6. Perusal of the award shows that the tribunal has not deducted income tax, while determining the annual income. However, Mr.N.Vijayaraghavan, learned counsel fairly submitted that he is not questioning the same. After reworking, the compensation due and payable to the legal representatives of the deceased/parents, is Rs.31,20,876/- and it is apportioned under the following heads.

|                                |                  |
|--------------------------------|------------------|
| Monthly Income                 | : Rs.17,598/-    |
| 50% future prospects           | : Rs.8,799/-     |
| Total Income                   | : Rs.26,397/-    |
| Annual Income (x 12)           | : Rs.3,16,764/-  |
| 50% Deduction                  | : Rs.1,58,382/-  |
| by applying '18' Multiplier    |                  |
| Loss of contribution to family | : Rs.28,50,876/- |
| Love and affection             | : Rs. 2,00,000/- |
| Funeral expenses               | : Rs. 50,000/-   |
| Transportation                 | : Rs. 20,000/-   |

7. Thus, there shall be a reduction in the quantum of compensation to Rs.31,20,876/- as against Rs.40,71,168/-, awarded by the tribunal. The rate of interest awarded by the tribunal remains unaltered. The Civil Miscellaneous Appeal is allowed in part. No costs.

8. Consequently, the appellant-Insurance Company, is directed to deposit the entire award amount with proportionate accrued interests and costs, less the amount already deposited, to the credit of MCOP No.1387 of 2013, on the file of the Motor Accidents Claims Tribunal, (II Additional

District Judge), Tiruppur, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents/claimants are permitted to withdraw the award amount as apportioned by the tribunal, by making necessary applications. Consequently, connected Miscellaneous Petition is closed.

[S.M.K., J.] [N.A.N., J.]  
22.09.2016

Index: Yes/No  
Internet: Yes/No  
ars

S.MANIKUMAR.J.  
and  
N.AUTHINATHAN.J.

ars

To

1. Motor Accidents Claims Tribunal,  
II Additional District Judge, Tiruppur
2. The Section Officer,  
VR Section, High Court, Madras.

C.M.A. No.2188 of 2016

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