

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.09.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.3751 of 2013

M/s.Iffco Tokio General Insurance Co. Ltd.,
Tulsi Chambers, III Floor,
No.195, T.V.Swamy Road (West),
R.S.Puram, Coimbatore-641 002.

.. Appellant

Versus

1.Ravi
2.Jeyaseelan
3.Chithra
4.Senthil Kumar
5.Raji

.. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 31.10.2012 made in M.C.O.P.No.959/2010 on the file of the Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Tiruppur.

For Appellant : Mr.N.Vijayaraghavan

For respondents : Mr.Ma.P.Thangavel for R1 to 3
R4 and 5 exparte

J U D G M E N T

The Civil Miscellaneous Appeal filed by the appellant/Insurance Company, is directed against the correctness of the impugned award dated

31.10.2012 made in M.C.O.P.No.959/2010 on the file of the Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Tiruppur.

2. According to the claimants, on 08.08.2010 at about 08.00 hrs., when the deceased was walking in the mud road, a car bearing Registration No.TN 37 BJ 8637 came in a rash and negligent manner and dashed against the deceased. Due to the same, the deceased sustained injuries and he died on the way to hospital. A Post Mortem was conducted on the body of the deceased at Government Hospital, Palladam. According to the claimants, the deceased died due to the rash and negligent driving of the driver of the car.

3. Learned counsel appearing for the appellant/Insurance Company contends that the award of the Tribunal is completely contrary to law and weight of evidence for the reason that the learned Tribunal grossly erred in awarding a huge compensation, which is not in consonance with the facts and circumstances of the case. Moreover, when there was no proof of income of the deceased produced before the Tribunal, the learned Tribunal has committed serious error in fixing excessive income of the deceased.

4. Learned counsel appearing for the claimants/respondents would

submit that as per the ratio laid down in the case of **Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another** reported in 2009 (6) SCC 121, the learned Tribunal ought to have fixed the right multiplier '9', as the deceased was 59 years at the time of accident, but, the learned Tribunal has applied the wrong multiplier '8' instead of '9' and therefore, on this score, the fixation of total compensation has been substantially reduced. Hence, he prays for enhancement of compensation.

5. Admittedly, the deceased was proved to be a Building Contractor. Although Rs.10,000/- was claimed as monthly income of the deceased, learned Tribunal disbelieved with such a huge claim, has rightly fixed Rs.8,550/- as monthly income of the deceased on the premise that the deceased was working as a contractor in Tiruppur, which is known for huge export of textiles to foreign countries. Again deducting $1/3^{\text{rd}}$ towards his personal expenses, Rs.5,700/- has been taken as his contribution to his family. This Court, finding merits on the submission made by the learned counsel for the claimants/ respondents to the effect that the learned Tribunal has wrongly adopted the multiplier '8' instead of '9', since he comes under the age group 56 to 60 years, deems it fit to adopt the said multiplier '9', as per the ratio laid down in the case of **Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and**

another reported in 2009 (6) SCC 121, which reads thus:

“42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above which starts with an operative multiplier of 18, reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”

On the basis of the above said judgment, Rs.6,15,600/- (68400 x 9) is fixed towards loss of income of the deceased and the amount awarded by the learned Tribunal under the other heads are confirmed as it is. Accordingly, Rs.7,20,600/- is fixed towards total compensation.

6. This Court is not able to find any merits on the contention made by the learned counsel for the appellant. Therefore, the appeal fails and the same is dismissed.

7. Learned counsel appearing for the respondents/claimants submitted that the compensation awarded by the Tribunal has already been deposited by

the Insurance Company and the same has also been withdrawn by the claimants.

8.The appellant/Insurance company is hereby directed to deposit the balance amount within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is open to the claimants to move an application to withdraw the same, as ordered by the Tribunal. No costs. Consequently, connected M.P. is closed.

12.09.2016

Index : Yes / No
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To

1.The Motor Accidents Claims Tribunal,
II Additional District and Sessions Court, Tiruppur

2.The Section Officer, V.R.Section,
High Court, Madras.

T.RAJA, J.

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