

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.3615 of 2012

M/s.ICICI Lombard General
Insurance Co. Ltd.,
No.84/85, Walltax Road,
Chennai-600 003.

.. Appellant

Versus

1.J.Govindan
2.G.Vijaya
3.Kalleel Rahman.S.
(R3 set exparte in Lower Court)

.. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 23.09.2011 made in M.C.O.P.No.870/2009 on the file of the Motor Accidents Claims Tribunal, (Fast Track Court No.II) at Poonamallee.

For Appellant	:	Mrs.K.Sree Vidhya
For respondents	:	Mr.K.Varadhakamaraj for R1 and R2 R3 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 23.09.2011 made in M.C.O.P.No.870/2009 on the file of the Motor Accidents Claims Tribunal, (Fast Track Court No.II) at Poonamallee.

2. According to the claimants, on 26.10.2009 at about 17.00 hrs., when the deceased was travelling in the two wheeler bearing Registration No.TN 09 AZ 4208, an Ashok Leyland bus bearing Registration No.TN-04-L-7085, came in the same road behind the deceased, suddenly hit the deceased. Due to the accident, the deceased fell down and sustained head injuries and multiple grievous injuries and he was admitted in the Balaji Hospital, Guindy. But he died in the hospital. According to the claimants, the deceased died due to the rash and negligent driving of the driver of the bus.

3. Learned counsel appearing for the appellant/Insurance Company contends that the learned Tribunal has wrongly fixed the notional monthly income of the deceased at Rs.7,000/-, when he was only a student. He would further submit that the learned Tribunal has failed to note that when the deceased was aged about 19 years at the time of accident, the age of the mother must be more than 45 years and hence proper multiplier would be 13 years only. Therefore, 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 and hence the same is liable to be set aside.

4.The said argument is wholly untenable. The reason is that the learned Tribunal, after fixing Rs.7,000/- as notional monthly income of the deceased, has rightly deducted 50% thereof on the ground that the deceased was a bachelor at the time of death and has wrongly applied multiplier '16' instead of '18' 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 has also committed yet another error in fixing the amount towards loss of love and affection. Therefore, if this Court re-determined the loss of income by adopting the right multiplier '18' and re-fixing the amount towards loss of love and affection, the amount awarded by the learned Tribunal will have to be enhanced and hence, this Court is not inclined to entertain the appeal and the same fails and dismissed.

5.It is brought to the notice of this Court that the entire amount as awarded by the Tribunal, has been deposited by the Insurance Company. It is open to the claimants to move an application to withdraw the same. No costs. Consequently, connected M.P. is closed.

23.09.2016

Index : Yes / No
vga

T.RAJA, J.

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To

1.The Motor Accidents Claims Tribunal,
(Fast Track Court No.II), Poonamallee.

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

C.M.A. No.3615 of 2012

23.09.2016