

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 29.11.2016****Coram:****WEB COPY****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****C.M.A (MD) No.103 of 2016**

- 1.Vasanthha @ Kalimuthu
- 2.Muthulakshmi
- 3.Arasakumar
- 4.Rathika
- 5.Saravanan

.. Appellants/Claimants

-Vs-

- 1.A.Suriyakumar
- 2.The Branch Manager,
United India Insurance Company Ltd.,
Seethalakshmi Complex,
Thirunagar,
Madurai.

.. Respondents/Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 praying to enhance the award amount made in the Judgment and Decree dated 16.04.2015 made in M.C.O.P.No.237 of 2013 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Pudukottai.

For Appellant : Mr.P.Rajagopal
For 2nd Respondent : Mr.A.S.Mathialagan

JUDGMENT

The appellants/claimants, filed the present C.M.A.(MD)No.103 of 2016, challenging the award passed in M.C.O.P.No.237 of 2013 by the Motor Accidents Claims Tribunal/Additional District Judge, Pudukottai.

2.It is a case fatal accident that took place at about 11.15 a.m. on 01.06.2012 opposite to Bangalore Post Office, Pudukottai - Tanjore Main Road, in which one Alagudasan has died. His legal heirs filed application seeking compensation before the Motor Accident Claims Tribunal, Additional District Judge, Pudukottai and the Tribunal considering the facts and circumstances of the case awarded Rs.6,71,607/- towards total compensation. Challenging the award, the appellants/claimants preferred this appeal, seeking enhancement of compensation.



3.The learned counsel for the appellant would submit that the multiplier adopted by the Tribunal is erroneous and the deceased was aged about 56 years at the time of death and has worked as Post Master in the postal department. Accordingly, the Tribunal ought to have fixed the multiplier as 9 and but fixed it as 7. Therefore, the present appeal deserves to be considered and the award of compensation is to be enhanced.

4.The learned counsel for the second respondent oppose the appeal by stating that the Tribunal has rightly adopted the multiplier and the compensation awarded is just compensation, which requires no reconsideration or enhancement.

5.Considering the rival submissions made on both sides, this Court is of the view that the multiplier adopted in this case is erroneous in view of the fact as per **Smt. Sarla Verma & ors. v. Delhi Transport Corporation & another (SC)** reported in **2009 (2) TN MAC 1 (SC)** multiplier 9 ought to have been adopted in this case, but only multiplier 7 has been adopted and therefore, the quantum of compensation awarded by the Tribunal is to be enhanced. Hence, the loss of income is assessed at Rs.5,74,209/- instead of Rs.4,46,607/-. The amount awarded towards funeral expenses and transport expenses is enhanced from Rs.25,000/- to Rs.35,000/-. Hence, the total amount awarded is enhanced to Rs.8,09,209/-.

6.Accordingly, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is enhanced from Rs.6,71,607/- to Rs.8,09,209/-. The appellants are entitled to the award amount in the ratio as apportioned by the Tribunal. As directed in C.M.P.(MD) No.1062 of 2016, the appellants are directed to pay Court fees for the enhanced compensation. The second respondent/ Insurance Company is directed to deposit the entire award amount with proportionate interest and costs, less the amount if any already deposited within a period of four weeks from the date of receipt of a copy of this order. The appellants/claimants are permitted to withdraw the entire award amount with proportionate accrued interest and costs, less the amount already received through RTGS by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Additional District Judge,
The Motor Accident Claims Tribunal,
Pudukottai.



Copy to

The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Devaraj, Advocate Sr.No. 75024

+1cc to Mr.A.S.MAthialagan, Advocate Sr.No. 74643

sj

AE/SM/PM PN/14.03.2017/3P/5C

C.M.A(MD) No.103 of 2016

29.11.2016