



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2016

Coram:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1245 of 2016

and

C.M.P. (MD)No.10712 of 2016

The Branch Manager,
National Insurance Company Limited,
Door No.1272-1273, Palaniappa Complex,
Mettur Road,
Erode District.

.. Appellant/Respondent No.2

-Vs-

1.Shobana
2.Minor Madhanraja
(minor is represented through his
mother and natural Guardian
Shobana, the 1st Respondent)

3.Vellaisamy
4.Dhanalakshmi

.. Respondents 1 to 4/
Petitioners 1 to 4

5.C.Satheeshkumar

.. 5th Respondent/1st Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 27.01.2012 made in M.C.O.P.No.455 of 2008 on the file of the Motor Accident Claims Tribunal, District Judge, Karur.

For Appellant

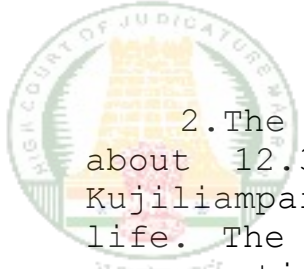
: Mr.D.Sivaraman

For Respondents 1 to 4

: Mr.J.Alaguram Jothi

JUDGMENT

The appellant/Insurance Company, filed the present C.M.A.(MD) No.1245 of 2016, challenging the award passed in M.C.O.P.No.455 of 2008 by the Motor Accidents Claims Tribunal/District Judge, Karur.



2.The facts in nutshell are that the accident took place at about 12.30 p.m. on 04.07.2008 near Kaliappan Mines on the Kujiliamparai - Karur Raod, in which one Rameshkumar lost his life. The legal heirs of the deceased filed application seeking compensation before the Motor Accident Claims Tribunal, District Judge, Karur and the Tribunal considering the facts and circumstances of the case awarded Rs.37,71,936/- towards total compensation. Challenging the award, the Insurance Company filed this appeal on the ground that the quantum of compensation awarded by the Tribunal is excessive and requires reconsideration.

3.The learned counsel for the appellant submitted that the finding of the Tribunal that the deceased received Rs.2,500/- per month towards medical allowance and travelling allowance is erroneous.

4.The learned counsel for the respondents 1 to 4 would oppose the point raised by the learned counsel for the appellant and argued that if this point raised by the appellant is admitted, a sum of Rs.10,000/- was granted under the head of love and affection, which is to be enhanced, as normally the Courts are granting Rs.1,00,000/- towards love and affection. Further, the Tribunal deducted 1/3rd amount towards personal expenditure, but as per the guidelines of the Hon'ble Apex Court only 1/4th amount has to be deducted and if accordingly worked out, the compensation will be more. Therefore, the amount awarded by the Tribunal does not require reconsideration.

5.This Court considered the rival submissions and perused the materials available on record.

6.Considering the facts and circumstances of the case, this Court is of the view that the award requires only change of head and the total compensation seems to be just compensation and this Court is not inclined to rearrange the compensation since the rearrangement will not make any difference in the total compensation.

7.Accordingly, this Civil Miscellaneous Appeal is dismissed and the award of the Motor Accident Claims Tribunal/District Judge, Karur dated 27.01.2012 made in M.C.O.P.No.455 of 2008 is confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with proportionate interest and costs within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the major claimants are permitted to withdraw their entire share in the award amount with proportionate accrued interest and costs, less the amount already received, through RTGS by making necessary applications before the <https://hcservices.mca.gov.in/rtgservices/>. The share of the minor 2nd respondent shall be deposited in a nationalized bank till he attains majority and the 1st respondent/mother of the minor is permitted to withdraw the



interest accrued once in three months directly from the Bank. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

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Sub Assistant Registrar

To

The District Judge, Motor Accident Claims Tribunal,
Karur.

Copy to

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to M/s.D.Sivaraman, Advocate in SR.No. 72974

sj

CSL/SS-3/22.12.2016: 3P/4C

C.M.A (MD) No.1245 of 2016

and

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