



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2016

Coram:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1295 of 2016

and

C.M.P.(MD)No.10987 of 2016

New India Assurance Company Limited,
Represented by its Branch Manager,
43A/2, Zuman Centre, Promenade Road,
Cantonment, Trichy.

.. Appellant/Second respondent

-Vs-

1. Lakshmi
2. Mankayarselvi
3. Prema
4. Krishnaveni
5. Logidharsan
6. Minor Nandhini
7. Mariyayee
8. K.Palanivel

.. Respondents 1 to 7/Petitioners

(Minor 6th respondent is represented by mother
and natural guardian 1st petitioner)

.. 8th Respondent/1st Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Award and Decree, dated 03.01.2007 made in M.C.O.P.No.1389 of 2004 on the file of the learned III Additional Subordinate Judge, Motor Accidents Claims Tribunal, Thiruchirappalli.

For Appellant : Mr.R.Srinivasan

JUDGMENT

This Civil Miscellaneous Appeal arises out of the Award and Decree passed by the learned III Additional Subordinate Judge, Motor Accidents Claims Tribunal, Thiruchirappalli, in M.C.O.P.No.1389 of 2004, dated 03.01.2007.

2. It is a case of fatal accident took place on 11.05.2003 at about 5.45 p.m., on Trichy-Tanjore main road, near the bus stop at Training Centre, B.H.E.L., Trichy. The legal heirs of the deceased have filed a claim petition before the Motor Accidents Claims Tribunal, Trichy, claiming compensation of a sum of Rs.20,00,000/-.



3. The Tribunal, considering facts and circumstances, awarded a sum of Rs.9,60,360/- along with interest at the rate of 7.5% p.a., as total compensation. Aggrieved over the same, the present Civil Miscellaneous Appeal has been filed.

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4. The learned counsel for the appellant contended that the Tribunal has committed an error in fixing the monthly income of Rs.12,120/-. Therefore, the quantum of compensation arrived by the Tribunal is excessive and this Court may re-consider the monthly income of the deceased fixed by the Tribunal.

5. During the relevant point of time, the net pay was not taken as the monthly income of the deceased by the Tribunal, is not contrary to the current principles.

6. This Court is of the view that the procedure of adopting net pay of the salary is over-ruled by the Courts. Therefore, the contentions raised by the learned counsel for the appellant cannot be accepted at this point of time and the monthly income of the deceased fixed by the Tribunal is in accordance with the current principles and procedures. Therefore, this Court is not inclined to intervene with the findings of the Tribunal. In such circumstances, the Award and Decree passed by the learned III Additional Subordinate Judge, Motor Accidents Claims Tribunal, Thiruchirappalli, in M.C.O.P.No.1389 of 2004, dated 03.01.2007 is confirmed and the Civil Miscellaneous Appeal is dismissed.

7. In view of the dismissal of the appeal, the appellant Insurance Company is directed to deposit the entire award amount with proportionate accrued interest and costs, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this judgment, if not deposited already. On such deposit, the respondents 1 to 5 and 7/claimants are permitted to withdraw their shares in the award amount along with proportionate interest and costs, through RTGS, by filing necessary applications before the Tribunal. The share of the sixth respondent/minor claimant shall be deposited in a Nationalised Bank in Fixed Deposit, till she attains majority and on attaining majority, it is for her to approach the Tribunal for disbursement of her share, by making necessary application. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (CSII)

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To
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1. The IIIrd Additional Subordinate Judge,
Motor Accidents Claims Tribunal, Thiruchirappalli
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+One cc to M/s.P.Prabhakaran, Advocate, SR.No.70510

+One cc to M/s.R.Srinivasan, Advocate, SR.No.72879

Copy to:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai

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SVA/6C/3P/BS/7.3.2017

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