



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2016

Coram:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.540 of 2014

and

M.P.(MD)No.1 of 2014

Branch Manager,
The Oriental Insurance Company Limited,
Krishnan Street,
Door No.75, Annasilai Backside,
Thiruvannamalai,
Pin Code No - 606 601.

.. Appellant/2nd Respondent

Vs.

1.A.Sulthan Rajeeva Banu

2.A.Ayuffkhan

3.H.Thuslim Parveen

..1to3 Respondents/1to3 Petitioners

4.R.Padma Bai

.. 4th Respondent / 1st Respondent

(4th Respondent remained exparte
before the lower Court)

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award made in M.C.O.P.No.34 of 2013, dated 06.03.2014, on the file of the Motor Accidents Claims Tribunal-cum-Sub Judge, Periyakulam.

For Appellant : Mr.K.Bhaskaran

For Respondents : Mr.K.Sureshkumar (for R1 to R3)

JUDGMENT

The appellant/Oriental Insurance Company has filed the present C.M.A(MD)No.540 of 2014, challenging the award passed in MCOP.No.34 of 2013, dated 06.03.2014, on the file of the Motor Accidents Claims Tribunal-cum-Sub Judge, Periyakulam.

2.The fatal accident took place on 28.07.2012, when the deceased one Mr.Jeyachandran along with his friends boarded in a Qualis car bearing Registration No.TN20-P-1313, which was insured under the Oriental Insurance Company. The deceased was an occupant in the car and the car was proceeding from Chennai to Trichy. The driver of the car rashly over took a two wheeler and a lorry was lying ahead. The Qualis car lost his control due to over speeding and dashed with a two wheeler and consequently hit



the lorry also. Consequent to the impact caused on account of this triangular accident, three persons travelled in the car died on the spot. The Tribunal fixed the entire negligence on the part of the appellant/Insurance Company and the Qualis car. The age of the deceased was 25 years and his monthly income was fixed as Rs.8,000/- and by deducting 50% since the deceased was a Bachelor, the Tribunal has awarded Rs.10,85,000/-.

3.The learned counsel appearing for the appellant stated that the age of the deceased or the age of the dependent ought to have been considered while fixing just compensation. In this regard, he cited a judgment of the Hon'ble Division Bench of this Court reported in **2016 ACJ 2435 (United India Insurance Co. Ltd. v. Marathal and others)** and the Division Bench observed as follows:

"3.In the light of the above stated legal position and considering the opinion of the amicus curiae, we are of the view that while adopting the multiplier for arriving at the just compensation in a motor accident case, the age of the victim is the factor to be taken into consideration and not the age of the dependant(s).

4.As the clarification sought for had been appropriately answered by this court, we direct the Registry to list the CMA before the appropriate court for consideration on merits. As regards the personal view expressed by the amicus curiae, we leave it open to the court concerned to take note of the same in accordance with law."

4.As per this judgment, the award fixed by the Tribunal in the case on hand requires no re-consideration and consequently, the award passed by the Motor Accidents Claims Tribunal-cum-Sub Judge, Periyakulam in MCOP.No.34 of 2013, dated 06.03.2014, is confirmed and the Civil Miscellaneous Appeal is dismissed.

5.The learned counsel appearing for the appellant/Oriental Insurance Company represented that 50% of the award amount has already been deposited. Accordingly, the appellant/Insurance Company is directed to deposit the balance 50% of the award amount with accrued interest within a period of four weeks from the date of receipt of a copy of this order. The respondents/claimants are permitted to withdraw the entire award amount with accrued interest through RTGS, by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

/True copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To
The Subordinate Judge,
Motor Accidents Claims Tribunal,
Periyakulam.

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+1 CC to M/s.K.BHASKARAN, Advocate, SR No.73480

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and
M.P. (MD) No.1 of 2014
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