



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1005 of 2013

and

M.P.(MD)No.1 of 2013

United India Insurance Co. Ltd.,
Through its Branch Manager,
D.No.924 - A Main Road,
C.C.C.Complex, Kovilpatti (Town & Taluk),
Tuticorin District - 628 501. .. Appellant/2nd Respondent

-Vs-

1.Subbulakshmi
2.Guruvammal
3.Minor. Aravindraaj
4.Minor. Puvanraj ...Respondent 1 to 4/Petitioner 1 to 4
(Respondents 3 and 4 are represented
through the 1st respondent mother and
natural guardian)
5.C.Mariappan .. 5th Respondents/1st respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P.No.11 of 2012, dated 26.11.2012, on the file of the Motor Accident Claims Tribunal, Additional District Court, Virudhunagar.

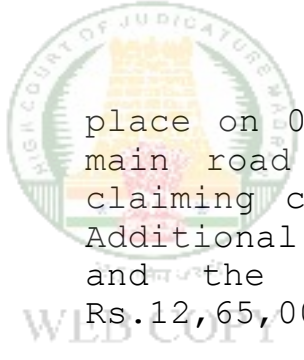
For Appellant	: Mr.A.S.Mathialagan
For Respondents	: Mr.B.Senthilkumar (for R1 to R4) Mr.G.Thalaimuthuarsu (for R5)

JUDGMENT

The appellant/United India Insurance Company Limited has filed the present C.M.A(MD)No.1005 of 2013, challenging the award passed in M.C.O.P.No.11 of 2012, dated 26.11.2012, on the file of the Motor Accident Claims Tribunal, Additional District Court, Virudhunagar.

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

2.It is a case of fatal accident caused in an accident took



place on 01.01.2011 at about 1.00 p.m. at Kovilpatti-Thirunelveli main road and the heirs of the deceased filed an application claiming compensation before the Motor Accident Claims Tribunal, Additional District Court, Virudhunagar. Considering the facts and the circumstances of the case, the Tribunal awarded Rs.12,65,000/- as total compensation.

3. Challenging the award, the appellant / Insurance Company has preferred the present appeal on the ground that the quantum of compensation awarded by the Tribunal is to be reduced, since the respondents 1 to 4/claimants had not produced any proof of employment in respect of the deceased person.

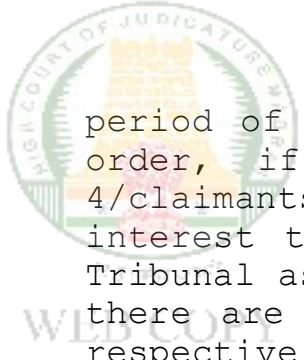
4. The learned counsel appearing for the appellant/Insurance Company has contended that in the absence of any income proof by the claimants, the Tribunal ought not to have fixed Rs.10,000/- as a monthly income only based on presumption. Therefore, the award of the Tribunal requires re-consideration in respect of the quantum of compensation.

5. The learned counsel appearing for the respondents 1 to 4/claimants has opposed the contentions of the appellant/Insurance Company by stating that the findings of the Tribunal is very clear that the deceased was working in Elite Technology Company at Muscat. On reading of the findings, the Tribunal stated that on perusal of Exs.P9 and P10, the deceased earned some amount by way of doing work in Elite Technology Company at Muscat.

6. Therefore, the arguments advanced by the learned counsel appearing for the appellant/Insurance Company that there is no evidence for income cannot be accepted. The Tribunal, considering the factor that the deceased was working in Muscat more specifically in Elite Technology Company fixed the monthly income at Rs.10,000/-, which cannot be construed as unreasonable and therefore, the findings of the Tribunal is in accordance with the established principles and there is no infirmity in the award. Further, it is a case of the fatal accident and the legal heirs are wife, mother and two minor children. When the deceased was working in Muscat, there are four dependants in India, naturally the same would have been caused greater hardship to the family.

7. Therefore, this Court is not inclined to modify the award passed by the Tribunal and accordingly the present appeal is devoid of merits and the award passed by the Motor Accident Claims Tribunal, Additional District Court, Virudhunagar, in M.C.O.P.No.11 of 2012, dated 26.11.2012, is confirmed and this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected M.P.(MD) No.1 of 2013 is closed.

8. The appellant/United India Insurance Company is directed to deposit the entire award amount with accrued interest within a



period of four weeks from the date of receipt of a copy of this order, if not already deposited, and the respondents 1 to 4/claimants are permitted to withdraw their share with accrued interest through RTGS by making necessary application before the Tribunal as per the ratio fixed by the Tribunal. In so far as, if there are any minors, the Tribunal is directed to deposit their respective portion in any one of the Nationalised Bank, till they attain majority. The guardian of the minor is permitted to withdraw the interest of the minor share once in three months directly from the bank. No costs.

Sd/-
Assistant Registrar(Crl.side)

/True Copy/

Sub Assistant Registrar

To
The Additional District Judge,
The Motor Accident Claims Tribunal,
Virudhunagar.

Copy to:
The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai

+1 cc to M/S.A.S.MATHIALAGAN, Advocate SR.No.71185

+2 cc to M/S.B.SENTHILKUMAR, Advocate Sr.No.71242, 71290

+1 cc to M/S.G.THALAIMUTHARASU, Advocate SR.No.71872

C.M.A (MD) No.1005 of 2013
and
M.P. (MD) No.1 of 2013
22.11.2016

SMA/SS-2/21.12.2016:3P/7C