



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2016

Coram:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1514 of 2013

and

M.P.(MD)No.3 of 2013

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The Divisional Manager,
M/s.Oriental Insurance Company Limited,
Divisional Office,
IInd Floor, No.4,
Promenade Road, Cantonment,
Tiruchirappalli.

.. Appellant/Respondent No.2

Vs.

1.Renganayagee
2.Shanmugam
3.Thavamani
4.S.Suresh

.. 1st Respondent/Petitioner No.1
.. 2nd Respondent/Petitioner No.2
.. 3rd Respondent/Petitioner No.3
.. 4th Respondent/Respondent No.1

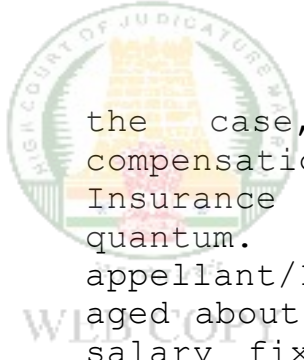
Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree passed in M.C.O.P.No.341 of 2010 dated 29.11.2012, on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Tiruchirappalli.

For Appellant : Mr.C.Jawahar Ravindran
For Respondents : Mr.M.S.Jeyakarthik (for R1 to R3)
R4 - Given up

JUDGMENT

The appellant/Oriental Insurance Company has filed the present C.M.A(MD)No.1514 of 2013, challenging the award passed in MCOP.No.341 of 2010, dated 29.11.2012, on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Tiruchirappalli.

2.It is a case of fatal accident caused on account of the accident occurred on 23.07.2009 around 19.00 hours on the Trichy - Pudukottai Main Road. The legal heirs of the deceased filed an application seeking compensation before the Motor Accident Claims Tribunal-cum-I Additional District Judge, Tiruchirappalli in MCOP.No.341 of 2010. Considering the facts and circumstances of



the case, the Tribunal awarded Rs.10,85,400/- as total compensation. Challenging the same, the appellant/Oriental Insurance Company has preferred the appeal on the ground of quantum. The learned counsel appearing for the appellant/Insurance Company mainly contended that the deceased was aged about 59 years and left out with 7 months of service and the salary fixed for 7 months is not in dispute, but, the future income of the deceased fixed by the Tribunal was more specifically after retirement is erroneous and such fixation of income after the retirement is to be re-considered.

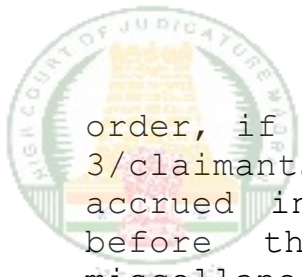
3.The learned counsel appearing for the appellant contended that 8 multiplier adopted by the Tribunal for the fixation of service period is in order. After the retirement for assessing the future loss of income, the Tribunal ought to have adopted 7 multiplier. Even after adopting the 7 multiplier, the appellant is able to say that Rs75,000/- is to be reduced from the total award of compensation.

4.The learned counsel appearing for the respondents 1 to 3 opposed the appeal by stating that the deceased was working as H.T. Operator in the Ordinance Factory, Trichy, which is Government of India undertaking and accordingly he was receiving good amount of salary and even after retirement, he will be entitled for pension and pensionary benefits and pension includes Dearness allowance also. Considering the facts and circumstances of the case, the learned counsel for the respondents 1 to 3 argued that the Tribunal was right in adopting the multiplier and fixing the quantum of compensation which requires no re-consideration.

5.Heard both sides.

6.This Court is of the opinion that the facts and circumstances of the case is very clear that the deceased was working in Government of India undertaking controlled by the Defence Ministry and further he left out with the 7 months of service and it is pensionable service. Further the pension includes Dearness Allowance also. Therefore, a mere technical calculation and reduction of Rs.75,000/- will not satisfy the mental agony and the hardship caused to the family members of the deceased, especially in the present case on hand. Considering the facts and circumstances of the case, this Court is not inclined to consider the grounds of appeal raised by the appellant/Insurance Company and accordingly the award passed by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Tiruchirapalli in MCOP.No.341 of 2010, dated 29.11.2012, is confirmed and the Civil Miscellaneous Appeal is dismissed.

7.The appellant/Oriental 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. Thereafter, the respondents 1 to 3/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.

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Sd/-
Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar

To

I Additional District Judge,
The Motor Accident Claims Tribunal,
Tiruchirapalli.

Copy to :

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

+1cc to M/s.C.Jawahar Ravindran, Advocate in SR No.73270

vsa
SMA/PM-AM/23.01.2017 : 3P-4C

C.M.A(MD)No.1514 of 2013
and
M.P.(MD)No.3 of 2013
25.11.2016