



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2016

CORAM:

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

C.M.A. (MD) No.1890 of 2013

and

M.P. (MD) 3 of 2013

The Oriental Insurance Company ltd.,
represented by its Branch Manager
LIC Building, IIIrd Floor,
Presidency road,
Chinnakada, Quilon,
Kerala.

... Appellant/3rd respondent

Vs.

1.Ambrose

2.Selvi

3.Nalini

... Respondents 1to3/Petitioners 1to3

4.Jelil

5.Abdul Salam

6.G.Elumalai

7.Smt.H.Manjula

8.ICICI Lombard in General Insurance Co., Ltd.,
rep. its Manager
Zenith house,
Keshavarao Khadye marg.,
Opp - Race Course, Mahalazmi,
Mumbai - 400 034.

(R6 to R8 given up) ... Respondents 4to8/Respondents 1,2,4,5,8

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of M.V.Act, to set aside the order of the Tribunal of MACT cum Subordinate Judge, Padmanabhapuram made in M.C.O.P. No.43 of 2012 dated 19.02.2013 and allow the appeal with costs.

For Appellant

: Mr. C.Jawahar Ravindran

<https://hcservices.ecourts.gov.in/hcservices/> File to 4

: No Appearance

For R5

: Mr.K.P.Narayana Kumar

**JUDGMENT**

The Civil Miscellaneous Appeal is filed to set aside the order of the Tribunal of MACT cum Subordinate Judge, Padmanabhapuram made in M.C.O.P. No.43 of 2012 dated 19.02.2013.

2.It is a case of a fatal accident, caused on account of the accident took place on 09.05.2010 around 3.30 pm on Nagercoil Tiruvandrum road.

3.The legal heirs of the deceased filed an application before the Motor Accident Claims Tribunal (Subordinate Court), Padmanabhapuram in M.C.O.P.No.43 of 2012 and the Tribunal considering the facts and circumstances of the case, awarded a sum of Rs.9,60,000/- as total compensation.

4.Challenging the same, the appellant / Oriental Insurance Company preferred the present appeal mainly on the ground that the loss of income calculated by the Tribunal was erroneous. In fact the deceased was a bachelor and there were less dependence and therefore, 50% has to be reduced towards personal expenses. Contrarily, the Tribunal had taken one third of monthly income towards personal expenses, which is erroneous. Accordingly, the quantum of compensation is to be modified while applying the multiplier.

5.The learned counsel for the 5th respondent opposed the appeal by stating that the Tribunal has reduced one third portion of the monthly income as personal expenses, which is correct and accordingly, no reconsideration of the award amount is required and hence, the appeal deserves to be dismissed.

6.Heard both parties.

7.On reading of the findings of the Tribunal, it is clear that the Tribunal has considered the monthly income of Rs.7,500/-. Since the deceased was a bachelor and the parents are the claimants, this Court is of the view that 50% ought to have been deducted towards personal expenses. Accordingly, this Court is inclined to modify the award. For personal expenses, 50% is deducted and hence, $\text{Rs.3,750} \times 12 \times 15 = 6,75,000/-$ is awarded. The award of Rs.30,000/- towards loss of love and affection is enhanced to Rs.75,000/-. In all other respects, the award of the Tribunal is confirmed and accordingly, the total award amount of Rs.9,60,000/- is modified as Rs.7,80,000/-. The respondents /



claimants are entitled for compensation of Rs.7,80,000/- with accrued interest.

8.Hence, the C.M.A.(MD)No.1890 of 2013 is allowed and the quantum of compensation of Rs.9,60,000/- is modified as Rs.7,80,000/-.

9.It is represented that the appellant has already deposited Rs.7 lakhs and hence, the appellant is directed to deposit the balance amount of compensation with accrued interest within a period of 4 weeks from the date of receipt of a copy of this order and the claimants are permitted to withdraw the award amount with accrued interest through RTGS by filing necessary application. No costs. Consequently, connected M.P.is closed.

Sd/
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To
The Subordinate Judge,
The Motor Accident Claims Tribunal,
Padmanabhapuram.

Copy to:

The Section Officer ,
V.R.Section,

Madurai Bench of Madras High Court, Madurai.

+1cc to C.Jawahar Ravindran Advocate in Sr.No.74827

+1cc to Mr.K.P.Narayana Kumar Advocate In Sr.No.75033

nbj

js/RR/Ms/06.02.2017/3p-5c

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