



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2016

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A. (MD) No.512 of 2013

and

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

The Branch Manager,
ICICI Lombard General Insurance Company Ltd.,
United Arcade, 3rd Floor, Annamalai Nagar,
Karur Bye Pass Road,
Thillai Nagar, Trichy-18. ..Petitioner/Appellant/2nd Respondent

Vs.

1.Venkatesh Pandian
2.Nagalakshmi @ Sarumathi ... Respondents/ Petitioners
3.K.Panneer Selvam .. Respondent/ Respondent No.1

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decreetal order dated 31.01.2011 made in M.C.O.P.No.99 of 2008 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Srivilliputhur.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.V.B.Sundareswar
for Mr.J.Suresh
for R.1 and R.2

JUDGMENT

It is a case of a fatal accident caused on account of an accident took place on 05.04.2008 at about 09.00 a.m. near Rajapalayam TB Mills Road. The legal heirs of the deceased filed an application seeking compensation before the Motor Accident Claims Tribunal, Srivilliputtur and the Tribunal taking into consideration the facts and circumstances of the case, granted a sum of Rs.8,44,000/- as total compensation.



2. The learned Counsel for the appellant contended that the deceased at the time accident was aged about 46 years and was a sales woman. Even as per the application for compensation, the monthly income of the deceased was Rs.4,516/-. Ex.P.15 also proves the same and therefore, the Tribunal has erroneously fixed the monthly income and hence, the loss of income has to be recalculated.

3. The learned Counsel for the respondents 1 and 2 opposed the contention of the learned Counsel for the appellant by stating that the age of the deceased at the time of the accident was 46 years and she was a sales woman in the co-operative Society and the Tribunal has rightly fixed the salary in accordance with the established principles, which requires no reconsideration.

4. Considering the facts and circumstances of the case and considering the fact that Ex.P.15 clearly establishes the salary of the deceased as Rs.4,516/-p.m., the Tribunal ought to have awarded a sum of Rs.6,10,584/- as total compensation for loss of income and for future prospectus. Instead the Tribunal erroneously granted a sum of Rs.7,92,000/- under this head. Hence, this Court is inclined to reduce the quantum of compensation under the head of loss of income and future prospects from Rs.7,92,000/- to Rs.6,10,584/- ($\text{Rs.}5871 \times 12 \times 13 \times 2/3$) Further the amount of Rs.20,000/- each to the claimants ie. Rs.40,000/- awarded under the head of love and affection is enhanced to Rs.70,000/- (Rs.35,000/- to each claimant) and the amount of Rs.12,000/- awarded under the head of funeral expenses is enhanced to Rs.20,000/- Accordingly, the respondents/claimants are entitled to total compensation of Rs.7,00,000/- (Rupees Seven Lakhs Only) and the calculation of the compensation is as follows:

For loss of income	=	Rs.6,10,584/-
For loss of love and affection	=	Rs. 70,000/-
For funeral expenses	=	Rs. 20,000/-

Total	=	Rs.7,00,584/-
Rounded off to Rs.7,00,000/-		

5. Accordingly, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

6. It is represented by the learned Counsel for the appellant that the entire award amount has already been deposited and the claimants have also withdrawn 50% of the award amount. Hence, the claimants are permitted to withdraw the balance award amount along with the costs and interest through RTGS by way of filing necessary application before the Tribunal concerned. The appellant is also permitted to withdraw the excess amount along



with proportionate interest and cost before the Tribunal.

Sd/-
Assistant Registrar

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/True Copy/

Sub Assistant Registrar

To
The Subordinate Judge,
The Motor Accident Claims Tribunal
(Subordinate Court), Srivilliputhur.

+1 cc to M/S.J.SURESH, Advocate SR.No.72403

+1 cc to M/S.S.SRINIVASA RAGHAVAN, Advocate SR.No.72935

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