



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1515 of 2011

and

M.P(MD) .No.1 of 2011

United India Insurance Company Limited,
Through its Branch Manager,
Having at Post Box No.34,
C.G.Complex,
139, Kumaran road,
Thiruppoor Taluk,
Thiruppoor District.
Respondent

.. Appellant/2nd

Vs

1.Latha
2.Minor Nathiya
3.Minor Nanthini
4.Thulasimani

..Respondents/Petitioners

(Minors R2 and R3 are rep. by through
their mother and next friend the 1st
respondent)

5.Shann's Cargo (P) Limited,
Indira nagar, Thaiyammal layout II,
Murugan Palayam,
Thiruppoor District.

.. 5th Respondent/1st Respondent

(R5 Exparte in Tribunal and notice dispensed with)

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decree dated 28.02.2011, passed in M.C.O.P.No.238 of 2010, on the file of the Motor Accidents Claims Tribunal, Additional District Court/Fast Track Court No.II, Thoothukudi, to allow this appeal with cost.

For Appellant : Mr.AS.Mathialagan

<https://hcservices.ecourts.gov.in/hcservices/> For Respondents : No Appearance

**JUDGMENT**

This Civil Miscellaneous Appeal has been filed to set aside the order and decree dated 28.02.2011, passed in M.C.O.P.No.238 of 2010, on the file of the Motor Accidents Claims Tribunal, Additional District Court/Fast Track Court No.II, Thoothukudi.

2. It is a case of fatal accident caused on account of an accident took place on 05.09.2009, around 05.00 a.m. near Madurai-Dindigul four way Road. The legal heirs of the deceased filed a claim petition seeking compensation before the Tribunal, and the Tribunal, considering the facts and circumstances awarded a sum of Rs.16,59,500/-. Challenging the same the appellant United India Insurance Company preferred this appeal mainly on the ground of quantum.

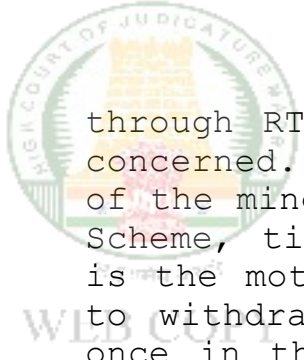
3. The learned counsel for the appellant contended that the Tribunal has erroneously applied the multiplier and fixed higher compensation. Therefore the quantum of compensation awarded is to be reconsidered and reduced.

4. Heard the learned counsel for the appellant and perused the materials available on record.

5. A reading of the facts shows that the deceased was 34 years old, at the time of death and he was working as a driver. Further the claimants are wife and two minor children along with the mother. The deceased was the only bread winner of the family and all the four claimants are the dependents of the deceased person. Such being the pathetic situation of the family of the deceased, this Court is not inclined to reconsider the quantum of compensation awarded by the Tribunal and accordingly this Court is of the view that the amount of compensation awarded is a just compensation and the minor discrepancies cited by the learned counsel for the appellant cannot be considered. In such circumstances, the award passed by the Tribunal is confirmed.

6. In the result, this Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No Costs.

7. The appellant is directed to deposit the entire award amount with accrued interest and costs, to the credit of M.C.O.P.No.238 of 2010, on the file of the Motor Accidents Claims Tribunal, Additional District Court/Fast Track Court No.II, Thoothukudi, within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the respondents 1 and 4/claimants 1 and 4 are directed to withdraw their share of the award amount as apportioned by the Tribunal with proportionate interest and costs



through RTGS by filing necessary application before the Tribunal concerned. Further, the Tribunal is directed to deposit the share of the minors in any of the Nationalised Banks, in a Fixed Deposit Scheme, till they attain majority, and the first respondent, who is the mother and guardian of the minor respondents is permitted to withdraw the accrued interest from the share of the minors, once in three months directly from the Bank, for the welfare of the minors.

Sd/-
Assistant Registrar(CSI)

/True Copy/

Sub Assistant Registrar

PJL

To

1.The Additional District Judge /
Motor Accident Claims Tribunal/
Fast Track Court No.II,
Thoothukudi.

2.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.S.Mathialagan, Advocate Sr.No. 78751

JAM/18.01.2017/GSV-SV/ 3p-4c

C.M.A (MD) No.1515 of 2011

02.12.2016