

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

C.M.A.No.2921 of 2017

1. Nallammal

2. Mahendran

3. Manoharan

4. Minor. Sankari

(Fourth Appellant is represented by his guardian
his mother, the first appellant)

.... Appellants/Petitioners

..vs..

1. Thirunanasambandam

2. The Manager, United India Insurance Company Ltd.,
Divisional Office, No.42, Muthu Street,
1st Floor, Kumbakonam, Tanjore District

... Respondents/Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988,
against the judgment and decree, dated 23.12.2014 made in
M.C.O.P.No.107 of 2013 on the file of the Motor Accident Claims
Tribunal / Principal District Court, Ariyalur.

For Appellant : Mr. SP.Yuvaraj

For Respondent : Mr. J.Chandran, for R-2,
NDW, for R-1

J U D G M E N T
सत्यमेव जयते

The issue to be decided in this Appeal is, whether the
Tribunal is justified in adopting the split multiplier in a case
of a Government employee, who was to retire at the age of 58 and
the loss of income after the period of his retirement has also
to be calculated.

2. The claim petition has been filed by the Legal
Representatives of the deceased, Veerasamy, who are the wife,
sons and daughter, aged 47, 24, 21 and 17 respectively
(Claimants 1 to 4). They have filed the claim petition in MCOP
No.107 of 2013 claiming a sum of Rs.20,00,000/- as compensation.
The Tribunal has passed an award for a sum of Rs.8,77,368/-
under the following breakup details:-

Loss of income		
(11,144 x 12 x 3) :	4,01,184.00	
(Rs.66,864/- x 6) :	4,01,184.00	: Rs. 8,02,368.00
For consortium		: Rs. 25,000.00
For loss of love and affection		: Rs. 40,000.00
For funeral expenses		: Rs. 10,000.00

		Rs. 8,77,368.00

3. The Tribunal, while calculating the loss of income, has adopted the split multiplier, i.e., 3 and 6. According to the Pay Certificate of the deceased, the monthly income is taken at Rs.11,144/-. For a period of three years, the income has been taken as Rs.11,144/- and for the remaining period of six years, the income taken has been taken as 50% of Rs.11,144/-. The application for split multiplier is under challenge in this Appeal.

4. The learned counsel appearing for the appellants relied upon a judgment of the Division Bench of this Court in CMA No.2347 of 2015 (Govindammal and four others v. Velayudham and three others), dated 13.04.2017, where-under in paragraph 10 of the judgment, the application of split multiplier has been held not applicable and not permissible. Paragraph 10 reads:-

"10. The grievance of the appellants/legal representatives of the deceased Jayachandran is that the Tribunal has erred in adopting split multiplier. The Tribunal has arrived at the monthly income of the deceased Jayachandran as Rs.15,375/- till his retirement and Rs.3,750/- after retirement and adopted multipliers '3' and '8' respectively. As per the judgment of the Hon'ble Supreme Court in Sarla Verma and others vs. Delhi Transport Corporation and another reported in 2009 (2) TNMAC 1 (SC), the multiplier to be applied is 11. Following the said judgment, instead of split multiplier, we adopt Multiplier '11' for computing the loss of contribution to the family by fixing the income as Rs.15,375/- i.e. 1/3rd of the income of Rs.20,500/-, after deductions, shown in the certificate. Thus, the loss of contribution to the family is Rs.15,375 x 12 x 11 = Rs.20,29,500/-."

5. The view taken by the Hon'ble Division Bench is fortified by the judgment of the Hon'ble Supreme Court, in the case of Puttamma & Ors. Vs. K.L. Narayana Reddy & ANR. in [Civil Appeal No. 10918 of 2013 arising out of SLP (C) No.4639 of 2010] and the relevant observations read thus:-

32. For determination of compensation in motor

accident claims under Section 166 this Court always followed multiplier method. As there were inconsistencies in selection of multiplier, this Court in Sarla Verma prepared a table for selection of multiplier based on age group of the deceased/victim. Act, 1988 does not envisage application of split multiplier.

33. In K.R. Madhusudhan and others vs. Administrative Officer and another, (2011) 4 SCC 689, this Court held as follows:

"14. In the appeal which was filed by the appellants before the High Court, the High Court instead of maintaining the amount of compensation granted by the Tribunal, reduced the same. In doing so, the High Court had not given any reason. The High Court introduced the concept of split multiplier and departed from the multiplier used by the Tribunal without disclosing any reason there for. The High Court has also not considered the clear and corroborative evidence about the prospect of future increment of the deceased. When the age of the deceased is between 51 and 55 years the multiplier is 11, which is specified in the 2nd column in the Second Schedule to the Motor Vehicles Act, and the Tribunal has not committed any error by accepting the said multiplier. This Court also fails to appreciate why the High Court chose to apply the multiplier of 6.

15. We are, thus, of the opinion that the judgment of the High Court deserves to be set aside for it is perverse and clearly contrary to the evidence on record, for having not considered the future prospects of the deceased and also for adopting a split multiplier method."

34. We, therefore, hold that in absence of any specific reason and evidence on record the Tribunal or the Court should not apply split multiplier in routine course and should apply multiplier as per decision of this Court in the case of Sarla Verma (supra) as affirmed in the case of Reshma Kumari (supra). Compliance of Section 158(6) and 166(4) of the Act, 1988"

6. Relying upon the judgment of the Hon'ble Division Bench, referred to supra, the Appeal itself has been filed.

7. This Court is of the opinion that the contention taken by the appellants is acceptable and the compensation has to be re-structured by adopting the multiplier of '9' throughout and not the split multiplier of 3 and 6, respectively, (by adopting different pay structure). If that is done, the compensation would be Rs.12,93,552.00 and the breakup details read thus:-

Loss of income	
(11,144 x 12 x 9)	: Rs.12,03,552.00
For consortium	: Rs. 40,000.00
For loss of love and affection	: Rs. 40,000.00
For funeral expenses	: Rs. 10,000.00

	Rs.12,93,552.00

8. In the result, the Civil Miscellaneous Appeal is Allowed, by enhancing the compensation from Rs.8,77,368.00 to Rs.12,93,552.00 and this amount of compensation shall be deposited less the amount already deposited along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this judgment. The claimants are entitled to the share, as per the ratio of apportionment made by the Claims Tribunal. The appellants / claimants are not entitled to the interest for the default (condone delay) period. On such deposit being made by the second respondent / Insurance Company, the Tribunal shall transfer the compensation amount to the Savings Bank Accounts of the major appellants / major claimants, forthwith. The share of the minor claimant / fourth claimant / fourth appellant shall be deposited in a fixed deposit till the minor attains majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimant, once in three months directly from the bank under intimation to the Tribunal, and shall be used for the welfare of the minor claimant. The excess court fee shall be deposited by the claimants / appellants before receiving the copy of this judgment. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal / Principal District Court,
Ariyalur.

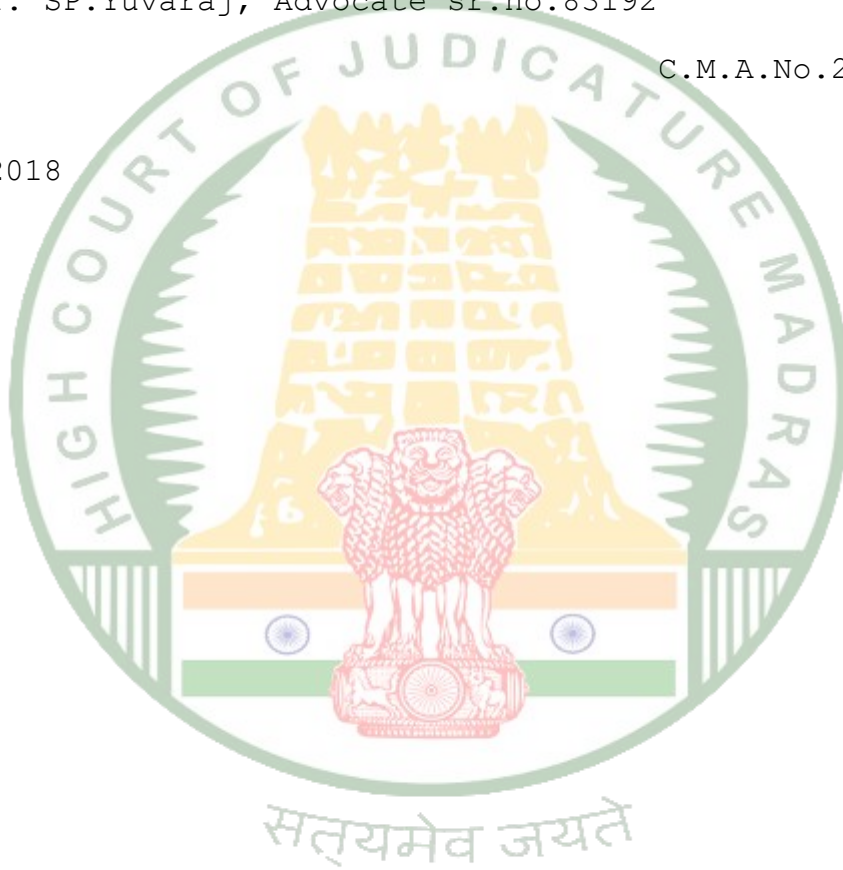
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The Section Officer, V.R.Section, Madras High Court,
Chennai 104

+lcc to Mr. SP.Yuvaraj, Advocate sr.no.83192

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