

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2017

C O R A M

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.3355 of 2014 and
M.P.No.1 of 2014

M/s United India Insurance Company Ltd.
Fagun Chambers, II Floor, No.26,
Ethiraj Salai, Egmore, Chennai-8. Appellant/2nd Respondent

-Vs.-

1. Alamelu

2. Shanthi

3.Parthiban

4.G.Aravinda Kumar Respondents/Petitioners
1 to 3/2nd Respondent

Civil Miscellaneous Appeal filed under Section 173 of
M.V.Act, 1988 against the judgment and decree dated 20.12.2013
made in M.C.O.P.No.4258 of 2012 on the file of the II Judge,
Motor Accident Claims Tribunal, Court of Small Causes at Chennai.

For Appellant Mrs.R.Srividya
for M/s R.Ravichandran

For Respondents 1 to 3 ... Mr.R.Varadhakamaraj
For 4th respondent ... No appearance

J U D G M E N T

The appeal is preferred by the Insurance Company,
challenging the quantum of compensation awarded by the trial
court.

2. The claimants, who are the wife and children of the
deceased, had sought for Rs.10,00,000/- as compensation for the
death of one C.Arasu. The age of the deceased was 60 years on

the date of accident as per Ex.P.3, which is a Postmortem Certificate. Admittedly, he is a coolie and he is a daily wager. As there is no records available for the monthly income, the notional income has fixed as Rs.6,000/-per month and after deducting 1/3rd for his personal expenses, the income of the deceased was fixed at Rs.4,000/- per month.

3. It is argued by the learned Counsel appearing for the Insurance Company that the age of the deceased was only approximately determined as 60 years as per the postmortem Certificate and the deceased was more than 60 years. Hence, the multiplier of 7 should be adopted as held by the Hon'ble Supreme Court in Sarala Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. However, when the postmortem certificate has stated the age as 60 years, applying the same judgment, the multiplier would be 9 for the age between 50 to 60 years. There is no other document produced to prove the age of the deceased as above 61 years. The age of the first claimant is 53 years whereas the second and third claimants are 40 and 35 years respectively. Considering the over all circumstances, the tribunal has also come to the conclusion that the deceased should be aged only 60 years and the multiplier applicable is 9. Accordingly, the pecuniary loss is calculated as $\text{Rs.4,000} \times 12 \times 9 = \text{Rs.4,32,000/-}$.

4. So far as the other heads are concerned, the award of the tribunal is not very seriously contested by the appellant except on the heads of loss of expectation of life and pain and sufferings. The loss of expectation of life is awarded at Rs.50,000/- and the pain and sufferings is at Rs.25,000/-. The claimants have sought for Rs.1,00,000/- for the loss of expectation of life. Due to the sudden death of the deceased, the family has lost the head. The deceased was only a coolie, doing the job of putting up thatched sheds. Therefore, it cannot be said that it is a difficult task for him to do the job. Considering the said fact, the tribunal had awarded Rs.50,000/- for the loss of expectation of life. So far as the head of pain and sufferings is concerned, immediately, after the accident, he was taken to the hospital on 20.06.2012 whereas he died only on 23.06.2012 in the hospital and for the pain and sufferings undergone by the deceased, Rs.25,000/- was awarded by the tribunal. This Court sees no reason to disturb the said award also.

5. In the result, the award granted by the Tribunal is confirmed without any modification and the appeal is dismissed. It is stated that the entire amount was already deposited into the court. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The II Judge,
Motor Accidents Claims Tribunal,
Court of Small Causes,
Chennai.

2. The Section Officer
V.R. Section,
High Court
Madras

+1 CC to Mr. K. Varadhakamaraj, Advocate sr 14520

CMA No.3355 of 2014

NMI (CO)
sp/20/3

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