

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

C.M.A.No.2095 of 2017
and CMP No.11123 of 2017

The Manager,
The New India Assurance Co. Ltd.,
Chennai - 1 ... Appellant

..VS..

1. Ruban Jayakumar
2. Rinuta
3. Rejita
4. S.Murugesan
(R-4 was set-exparte) ... Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988,
against the decree and Judgment, dated 31.07.2007 made in MCOP
No.924 of 2004 on the file of the Motor Accident Claims Tribunal,
(Fast Track Court V), Thiruvallur.

For Appellant : Mr. K.Padmanabhan

WEB COPY

JUDGMENT

The deceased, Julia Nirmala Rani, aged 47 years, a
Secondary Grade Assistant at Vidyodaya Matriculation and Higher
Secondary School, T.Nagar, Chennai, earning a sum of Rs.8,920/-

per month, died in an accident that took place on 08.10.2004. The first claimant as the husband and the second and third claimants as daughters of the deceased filed a claim petition for compensation claiming a sum of Rs.14,00,000/-, as compensation.

2. The Tribunal, on a consideration of the materials placed before it, has passed an award for a sum of Rs.6,49,500/- by the award dated 31.07.2007. This quantum of compensation is under challenge by the Insurance Company.

3. The main contention of the learned counsel for the appellant / Insurance Company is that, when the deceased was aged 52 years at the time of accident, the Tribunal committed error in fixing the multiplier as '11' on the basis of the age of the deceased (52 years) when she had only left over service of six years in her employment and that the compensation of Rs.2,00,000/- awarded towards loss of future benefits is unsustainable.

4. Whether the said contentions are acceptable is the issue to be considered.

5. A perusal of the award passed by the Tribunal would show that the following parameters are taking into account, while fixing the quantum of compensation.

5.1. The Tribunal has relied upon the evidence of P.W.3, a Junior Assistant at Vidyodaya Matriculation and Higher Secondary School, who has stated that the deceased was working as a teacher in the said school; that she was appointed in the year 1997; that after one year, she was made permanent; and that she was given a salary of Rs.8,920/- per month. His further evidence is that, if the deceased had been in continuous service, **she would have got promotions and salary would also have been increased**. The appointment letter is dated 18.06.1998. Ex.P-9 salary certificate has also been filed.

5.2. From Ex.P-9 salary certificate of the deceased, it is evident that the salary for the month of September 2004 was Rs.8,920/- under which the basic pay is given as Rs.5,375/-. Placing reliance upon the oral and documentary evidence produced, the Tribunal has taken only the notional income at Rs.5,000/- as income and thereafter, it has adopted the multiplier of '11' and her actual salary, as certified by the documents, has been omitted to

be considered. Therefore, when the salary of the deceased as an employee is not considered and the notional income alone has been made as a basis for the calculation, the question of adopting split multiplier does not arise for consideration.

6. It is common knowledge that there is no scope for consideration of notional income, when actual records have been placed before the Court showing the salary of the employee. If appropriate salary is taken into account, the compensation awarded under the head of loss of dependency would be found to be more. The compensation awarded towards the future loss of income at Rs.2,00,000/- is not excessive, if the household services rendered by the deceased is compensated in terms of money. Therefore, the compensation awarded by the Claims Tribunal cannot be said to be excessive.

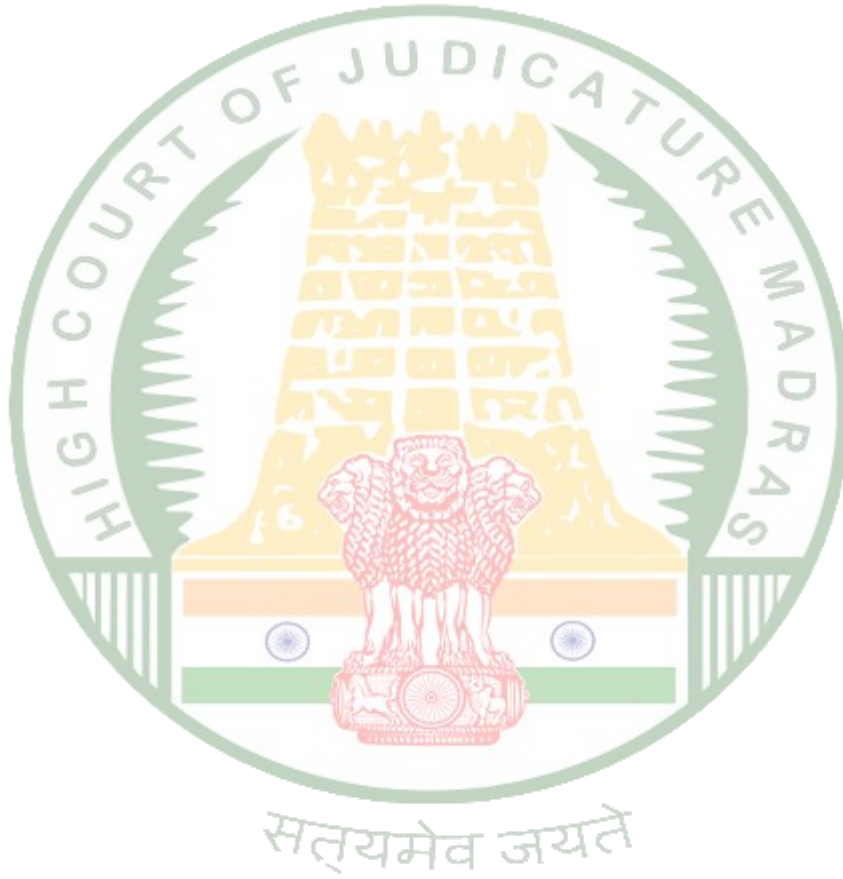
7. In view of the above reasonings, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

10.07.2017

Index : Yes / No
Web : Yes / No
srk

To

1. Motor Accident Claims Tribunal, Special Sub Court, Salem.
 2. The Section Officer, V.R.Section, Madras High Court, Chennai
- 104



WEB COPY

S.VIMALA, J.,

srk



C.M.A.No.2095 of 2017

WEB COPY

10.07.2017