

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.582 of 2017

Oriental Insurance Company,
Gopichettipalayam.

... Appellant / 2nd respondent

versus

1. T.K.Malarvizhi

... 1st respondent/Petitioner

2. T.S.Damodaran

... 2nd respondent/1st
respondent

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.09.2001, made in M.C.O.P.No.115 of 1998, on the file of the Motor Accident Claims Tribunal (Principal District Court), Vellore.

For Appellant : Mr.S.Manohar
For Respondent : No appearance

JUDGMENT

The claimant T.K.Malarvizhi filed a claim petition, claiming compensation in respect of death of her son T.K.Sivakumar, claiming a sum of Rs.12,00,000/-. The deceased was aged 27 years, employed in C.M.C.Hospital at Vellore and getting stipend of Rs.20,000/- p.m. died in an accident on 21.12.1997.

2. The Tribunal has quantified the compensation at Rs.6,00,000/-, payable along with interest at the rate of 9% p.a. from the date of petition till the date of deposit. This award is under challenge.

3. The learned counsel appearing for the appellant would point out that the age of the dependent ought to have been considered, while quantifying the compensation for future loss of income and it is not the age of the deceased which would be the base for quantifying the compensation. It is pointed out that the mother was aged more than 65 years and it is falsely argued that she is aged 50 years for the purpose of claim. Thus it is claimed that the award of compensation is excessive.

4. With regard to the question as to whether the age of the dependent or the age of the deceased is relevant, while quantifying the compensation towards future loss of income, the answer is readily available in the decision of the Supreme Court in Amrit Bhanu Shali & Ors. vs. National Insurance Company Limited & Ors. (2012) 11 SCC 738, wherein, it has been held as follows :

"15. The selection of multiplier is based on the age of the deceased and not on the basis of the age of the dependent. There may be a number of dependents of the deceased whose age may be different and, therefore, the age of the dependents has no nexus with the computation of compensation."

4.1. In this present case, the deceased was a M.Sc. Graduate; he has also obtained B.Ed. Degree; He had participated in N.C.C. and got merit certificates. He was studying computer course and he has a experience certificate also. It is the case of the mother that the deceased was also taking tuition and he was additionally earning a sum of Rs.2,000/- p.m.

4.2. The Tribunal has fixed the monthly income of the deceased at Rs.4,000/- and deducting 1/3rd towards personal expenses, the contribution of the deceased was taken at Rs.2,700/-p.m. Adopting the multiplier of '18', the Tribunal awarded a sum of Rs.5,83,200/- towards the loss of dependency and Rs.16,800/- has been awarded towards loss of two wheeler.

4.3. As it is a settled position that the the age of the deceased must be taken into account in order to adopt proper multiplier and the settled principle has been adopted in quantifying the compensation, the award of compensation cannot be said to be excessive.

4.4. Therefore, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 28.09.2001, made in M.C.O.P.No.115 of 1998, by the Motor Accident Claims Tribunal (Principal District Court), Vellore.

5. The Insurance Company is directed to deposit the entire amount of compensation along with interest at the rate of 9% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six

weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimant is permitted to withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

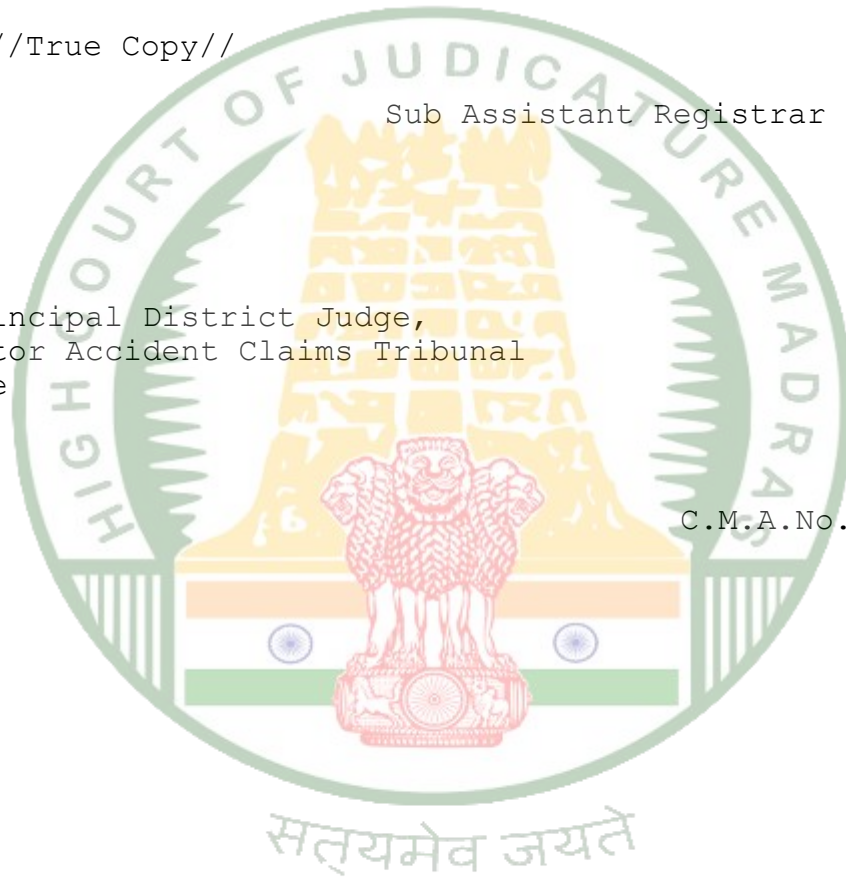
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To

1. The Principal District Judge,
The Motor Accident Claims Tribunal
Vellore

C.M.A.No.582 of 2017

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