

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.756 of 2017
and C.M.P.No.4104 of 2017

The United India Insurance Company Ltd.,
Nethaji Road,
Cuddalore. Appellant/4th respondent

versus

1. Selvaraj
2. Muniammal
3. Parameswari
4. Vijayalakshmi
5. Vinobhavani Respondent Nos.1 to 5 /
Petitioners
6. Moorthy 6th respondent / 1st respondent
7. The New India Insurance Co. Ltd.
Jawaharlal Nehru Street,
Pondicherry. 7th respondent / 2nd respondent
8. Ramani Priya 8th respondent / 3rd respondent
(R6 & 8 exparte before Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.09.2003 made in M.C.O.P.No.130 of 2000 on the file of the Principal Sub Judge, Cuddalore (M.C.O.P.No.128 of 2000 on the file of the District Judge, Cuddalore)

For Appellant : M/s.Revathi Muralidharan

JUDGMENT

Respondents 1 to 5 are claimants, 6th respondent is the first respondent, 7th respondent-New India Insurance Co. Ltd. is the second respondent, 8th respondent herein is the third respondent, before the Tribunal.

2. At the time of the accident, the deceased had been traveling in the vehicle belonging to the first respondent Moorthy in PY-01-K-4523 as a pillion rider. It was the case of the claimants that the vehicle belonging to the third respondent Ramani Priya, bearing Reg.No.PY-01-I-8727, which was insured with the 4th respondent United India Insurance Company Ltd., was driven in a rash and negligent manner and hit against the deceased. Hence, the claimants filed a claim petition claiming compensation of Rs.15,00,000/-. The claims Tribunal ordered compensation of Rs.3,08,000/-, as against the respondents 2, 3 and 4. Challenging the same, 4th respondent before the Tribunal, i.e. United India Insurance Company Ltd., has preferred this appeal.

3. A perusal of the ground of appeal would go to show that the multiplier adopted based on the age of the deceased is the grievance of the appellant and as the deceased was a bachelor, the contention of the Insurance Company is that the Tribunal should have adopted the multiplier taking into account the age of the mother of the deceased and not the age of the deceased himself.

4. As the appeal could be disposed of based upon the settled legal preposition, this Court has not ordered further notice and this Court is inclined to dispose of the appeal at the admission stage itself.

5. Now, the issue to be decided is as to whether the age of the deceased or whether the age of the mother of the deceased has to be adopted, when the deceased was a bachelor at the time of accident.

6. 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, where in 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."

7. Now, coming to the merits of the award passed, the father of the deceased has been examined as a witness, where, he has stated that the deceased was his only son. The deceased had been taken to the Government Hospital, Pondicherry originally and then, later he was shifted to the Government Hospital, Chennai, where, he died on 16.03.1999. The deceased had been earning a sum of Rs.3,000/- p.m. As there was no document available, the Tribunal has quantified the monthly income of the deceased at Rs.2,000/- and after deducting 1/3rd towards personal expenses and adopting multiplier of '18', awarded the compensation towards loss of dependency at Rs. 2,88,000/-.

7.1. As the deceased was a bachelor, The tribunal should have deducted half towards personal expenses ($\frac{1}{2}$), but it is relevant to point out that the future prospective increase in income has not been added; and that is adjustable towards, deduction in respect of personal expenses at the rate of 50% as against 1/3 that has been done; therefore, there is no excess award. The Tribunal has also awarded a sum of Rs.10,000/- towards cremation expenses and Rs.10,000/- towards loss of articles. Hence, the compensation awarded by the Tribunal cannot be said to be excessive.

8. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 29.09.2003 passed in M.C.O.P.No.130 of 2000 by the Principal Sub Judge, Cuddalore.

9. 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 claimants are permitted to withdraw their share of the amount, as per the apportionment made by the Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ogy

To

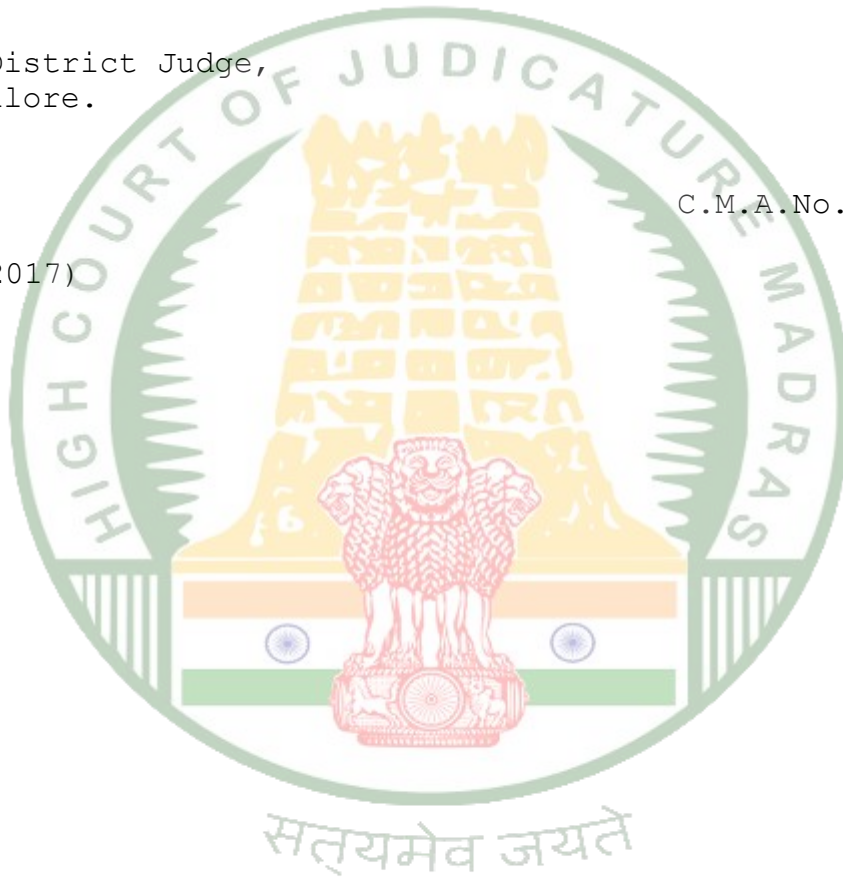
1. The Motor Accident Claims Tribunal
(Principal Sub Judge), Cuddalore

Copy to:

The District Judge,
Cuddalore.

KS (CO)
RS (29/06/2017)

C.M.A.No.756 of 2017



WEB COPY