



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1113 of 2016

1.Vijaya
2.Perimba Arulraj
3.Daniel Prakash
4.Kani Jascinda : Appellants/Petitioners 1 to 4
Vs.

M.Thangaraj (Died)
1. United India Insurance Company Ltd.,
Through its Manager, having its office at
No.91, Kamarajar Salai, Madurai.

2. T.Sureshpandian
3. S.Subathra : Respondents 1 to 3/Respondents 1 to 3
Deva Irakkam (Died)
4. Pushpam Leelavathy
5. Ranjini Kamala : Respondents 4&5/Petitioners 6&7

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 19.10.2011 made in M.C.O.P.No.127 of 1994, on the file of the Motor Accident Claims Tribunal [Principal District Judge], Thoothukudi.

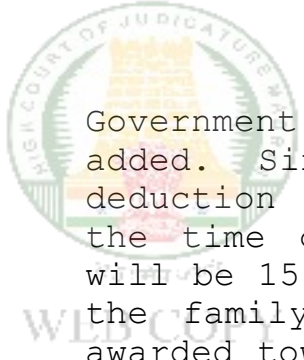
For Appellants : Mr.R.V.Rajkumar
For R1 : Mr.A.S.Mathialagan
For R5 : No appearance

JUDGMENT

The claimants have filed this appeal seeking enhancement of the compensation awarded to them.

2. One Devasahayam, husband of the first claimant died in an accident on 09.01.1994. The claimants filed M.C.O.P.No.127 of 1994, before the Motor Accident Claims Tribunal [Principal District Judge], Thoothukudi. The Tribunal awarded a sum of Rs.3,32,300/- as compensation. Contending that the Tribunal erred in quantifying the compensation, this Civil Miscellaneous Appeal has been filed.

3. It is not in dispute that the deceased was working as a driver in a Public Transport Corporation. His salary slip was marked as Exhibit P-7. It is seen that he was getting a sum of Rs.2,290/- per month. Since he was holding a job in a State



Government undertaking, future prospects at 50% will have to be added. Since, the dependants were seven in number, only one fifth deduction can be made. The deceased was aged about 37 years at the time of his demise. Therefore, the appropriate multiplier will be 15. Applying the standard formula, the pecuniary loss for the family will be Rs.4,95,000/-. A sum of Rs.75,000/- can be awarded towards loss of consortium and loss of love and affection. Further, a sum of Rs.30,000/- can be awarded towards loss of estate and funeral expenses. Therefore, the compensation payable to the claimants will be Rs.6,00,000/-. But the claimants themselves prayed for a sum of Rs.5,00,000/- in their claim petition. I am of the view that the claimants are entitled to the award amount as prayed for.

4. The compensation awarded by the Tribunal is enhanced from Rs.3,32,300/- to Rs.5,00,000/-. The award dated 19.10.2011 made in M.C.O.P.No.127 of 1994, on the file of the Motor Accident Claims Tribunal [Principal District Judge], Thoothukudi, is modified accordingly.

5.The first respondent/Insurance company is directed to deposit the compensation amount of Rs.5,00,000/- with interest at the rate of 7.5% per annum and costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the entire compensation amount as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application.

6.This Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,
Motor Accident Claims Tribunal,
Thoothukudi.

Copy To:-

The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.A.S.MATHIALAGAN, ADVOCATE IN SR No. 92988

+ 1 CC TO Mr.R.V.RAJKUMAR, ADVOCATE IN SR No. 92698

<https://hcservices.ecourts.gov.in/hcservices/>

TE/SV/SAR-1 : 10/07/2018 : 2P/6C

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