



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.114 of 2015

- 1.Susheela
- 2.Minor Raksitha
- 3.Mayandi
- 4.Ramu

(Minor petitioner through her mother
and next guardian, 1st petitioner
herein

... Appellants/Petitioners

Vs.

1. Maria Sundari
2. Future Generali India Insurance Company Limited,
through its Branch Manager,
Sri Ram Centre, 2 & 3rd Floor, Door No.180,
PP Sawadi, Theni Main Road,
Madurai - 625 016.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the award amount in M.C.O.P.No.983 of 2010 on the file of Motor Accident Claims Tribunal, 1st Additional District Judge, Tirunelveli dated 27.06.2013.

For Appellant
For Respondents

: Mr.T.Selvakumaran
: Mr.S.Srinivasa Raghavan for R2
R1 dispensed with

JUDGMENT

The claimants have filed this appeal questioning the impugned award on the ground that they were not awarded just and fair compensation.

2.The deceased was aged 28 years. He was a panchayat staff. His last drawn pay was established by marking Exs.P5 and P6. The employer was also examined. The Court had added 50% towards future prospects. After applying the relevant formulae, a sum of



Rs.11,21,020/- was awarded as compensation.

3.The claimants now contend that pay commission recommendations were subsequently implemented and that therefore, the same should be taken into account. I am of the view that this Court will have to go by the salary what was the last drawn pay of the deceased. The concept of future prospects has been incorporated only to take the same into account. In this case, future prospects has been awarded at the rate of 50%. Therefore, there cannot be taking into account the subsequent pay commission recommendation also. I find no merit in this appeal. Accordingly, the award dated 27.06.2013 made in M.C.O.P.No.983 of 2010 on the file of Motor Accident Claims Tribunal, 1st Additional District Judge, Tirunelveli is confirmed.

4.The second respondent insurance company is directed to deposit the entire compensation as awarded by the Tribunal with interest at the rate of 7.5% per annum, from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited if any. On such deposit, the claimants are permitted to withdraw the same as apportioned by the Tribunal by filing proper application before the Tribunal, less the amount already withdrawn by them, if any. The shares of the minor claimant shall be deposited in any one of the nationalised banks and the natural guardian is permitted to withdraw the interest accrued thereon once in three months directly from the bank.

5.This civil miscellaneous appeal stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
1st Additional District Judge, Tirunelveli.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.S.SRINIVASA RAGHAVAN, ADVOCATE IN SR No. 93485



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