



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.07.2017
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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C.M.A(MD)No.1144 of 2015
and M.P(MD)No.1 of 2015

M/S United India Insurance Company Limited,
Branch Office,
No.7A, West Veli Street,
Madurai-1.

... Appellant/2nd Respondent

Vs.

1.Abdul Razak
2.Santhen Begam
3.Arifa Banu
4.R.Muthu Lakshmi

... Respondents /Petitioners and
... 1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree in M.C.O.P.No.52 of 2011, on the file of Motor Accidents Claims Tribunal, District Court, Sivagangai dated 16.04.2015.

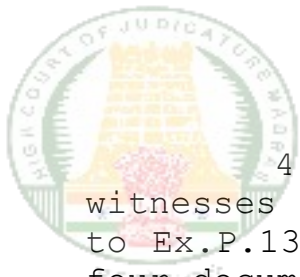
For Appellant	: Mr.J.S.Murali
For R1 to R3	: Mr.R.Karunanithi
For R4	: No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company Limited against the award made in M.C.O.P.No.52 of 2011, on the file of Motor Accidents Claims Tribunal, District Court, Sivagangai.

2. It is a case of fatal accident took place on 15.02.2010 at about 7.30 a.m, at Rameswaram-Madurai National Highways Road, in which, the driver of the auto bearing Registration No.TN-59-AL-4519, which is insured with the appellant-Insurance Company, drove the vehicle in a rash and negligent manner and dashed against the deceased, who was travelling in a two wheeler bearing registration No.TN-65-C-7776 and caused the death.

3. The claimants filed an application in M.C.O.P.No.52 of 2011, on the file of Motor Accidents Claims Tribunal, District Court, Sivagangai, seeking compensation.



4. Before the Tribunal, the Claimants examined two witnesses as P.Ws.1 and 2 and marked thirteen documents as Ex.P.1 to Ex.P.13. On the side of the respondents R.W.1 was examined and four documents were examined as Ex.R.1 to Ex.R.4.

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5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the auto, which is insured with appellant/Insurance Company and directed the appellant/Insurance Company to pay a sum of Rs.12,00,000/-, as compensation.

6. Against which, the appellant/Insurance Company has filed this present appeal on the ground that the Tribunal should not have fixed the monthly salary at Rs.12,500/- for calculating the loss of income and the amount of Rs.9,75,000- awarded for loss of income is on the higher side, which should be reduced.

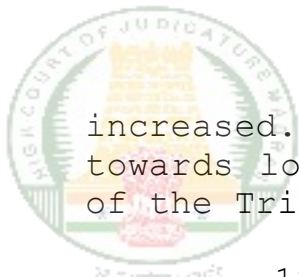
7. The learned counsel appearing for the appellant/Insurance Company would draw the attention of this Court to page No.21 of the typed set of papers, wherein it is stated that the deceased was working in a company and he was earning Rs.5,000/- as monthly income and the Tribunal had fixed Rs.12,500/- as the monthly income of the deceased.

8. The learned counsel for the respondents 1 to 3/claimants contented that the Tribunal awarded a just and reasonable compensation and the same does not require interference.

9. Heard the learned counsel appearing on both sides and perused the materials available on record.

10. In my considered opinion the fixation of monthly salary of the deceased at Rs.12,500/- is not correct, when the salary certificate has been marked mentioning the deceased received Rs.5000/- per month. Considering the same, as per **Sarla Verma v. Delhi Transport Corporation**, reported in **2009(2) TN MAC 1 (SC)**, this Court fixes the monthly salary at Rs.5000/- by adding 50% for future prospects, the amount would come to Rs.7500/- and after deducting 50% for personal expenses, the amount for loss of income would come to Rs.8,10,000/-. The amount of Rs.9,75,000/- awarded for loss of income is reduced to Rs.8,10,000/-.

11. During the course of argument, the learned counsel for the claimants would submit that the Tribunal has only awarded Rs.60,000/- towards loss of love and affection, which should be



increased. Considering the same, this Court awards Rs.1,00,000/- towards loss of love and affection. In all other heads, the award of the Tribunal is confirmed.

12. This Court modifies the award of the Tribunal in the following manner:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of income	9,75,000	8,10,000	reduced
2.	For Medial Expenses	1,27,275	1,27,275	confirmed
3.	Loss of love affection	60,000	1,00,000	enhanced
4.	Loss of estate	20,000	20,000	confirmed
5.	For mental agony	10,000	10,000	confirmed
6.	Funeral expenses	10,000	10,000	confirmed
	Total	Rs.12,02,275 rounded off to Rs.12,00,000/-	10,77,275 rounded off to Rs.10,80,000/-	By reducing a sum of Rs.1,20,000/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the award of the Motor Accidents Claims Tribunal, District Court, Sivagangai, is hereby modified. The total compensation awarded by the Tribunal is reduced from **Rs.12,00,000/-** to **Rs.10,80,000/-**. The appellant/Insurance Company is directed to deposit the award amount with accrued interests and costs, within a period of six weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the respondents 1 to 3/claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate interests and costs without filing formal permission petition. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

/True copy/



To
The Motor Accidents Claims Tribunal
District Judge, Sivagangai.

+1 CC to M/s.J.S.MURALI, Advocate, SR No. 67662.

Copy To:
The Section Officer,
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

CM
PSM/KK/SAR2/28.08.2017/4P/4C

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