



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1172 of 2016

M.Saranya ... Appellant / Claimant
Vs.

1. R.G.Maheswaran

2. The IFFCO-TOKIO,
General Insurance Company Ltd.,
by its Divisional Manager,
T.B.Road,
Madurai-10.

... Respondents / Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and award made in M.C.O.P.No.1473 of 2010 dated 28th day of February 2012, on the file of I Additional District Judge, Madurai, for the enhancement.

For Appellant : Mr.K.Murugesan
For R-1 : Mr.A.R.Kannappan
For R-2 : Mr.G.Muthaian

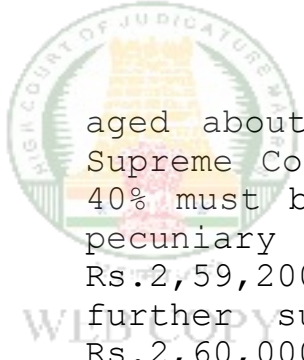
J U D G M E N T

Heard the learned counsel on either side.

2. The claimant has filed this appeal seeking enhancement of the compensation awarded to her by the Tribunal.

3. One Marimuthu @ Murugesan died in an accident that took place on 02.01.2007 at about 9.00 A.M on Theni-Periyakulam Main Road. He was a pillion rider in a two wheeler. The two wheeler was hit by a lorry coming from the opposite direction. The lorry is insured with the second respondent. The wife of the deceased filed M.C.O.P.No.1473 of 2010 on the file of the learned 1st Additional District Judge, Madurai. The Tribunal awarded a sum of Rs.6,88,000/- as compensation. Contending that the said sum is not adequate, this appeal has been filed.

4. It is seen that the Tribunal rightly fixed the monthly income earned by the deceased as Rs.3,000/-. But future prospects were not taken into account. He was self employed person. He was



aged about 25 years at the time of the accident. The Hon'ble Supreme Court has held that in such cases the future prospects @ 40% must be added. If the future prospects @ 40% is added, the pecuniary loss to the family would come to (Rs.4,200 x 12x18) Rs.2,59,200/-. By so adding, the claimant will be entitled to a further sum of Rs.2,59,200/-. This can be rounded off to Rs.2,60,000/-. The compensation awarded by the Tribunal is enhanced from Rs.6,88,000/- to Rs.9,48,000/-.

5.The respondents are directed to deposit the enhanced compensation amount of Rs.9,48,000/- with interest at 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 order, less the amount already deposited, if any. The claimant is permitted to withdraw the entire amount, less the amount already withdrawn by her, if any, by filing proper application before the Tribunal.

6. The award dated 28.02.2012 in M.C.O.P.No.1473 of 2010 on the file of I Additional District Judge, Madurai is modified as indicated above. This Civil Miscellaneous Appeal is allowed, accordingly. No costs.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The I Additional District Judge,
Madurai.

Copy to

The Section Officer, Vernacular Section,
Madurai Bench of Madras High Court, (2 Copies)
Madurai.

+1cc to Mr.K.Murugesan, Advocate SR.No.89918
+1cc to Mr.A.R.Kannappan, Advocate SR.No.90308
+1cc to Mr.G.Muthaian, Advocate SR.No.90300

Kmi

MK/SKN/SAR 1/18.09.2018/2P/7C

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