



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.159 of 2015

and

C.M.P (MD) No.8336 of 2017

1.Sharmila
2.Minor Shadiya
3.Minor Shadhin
4.Minor Nadiya
5.Sharfudin
6.Fathima

... Appellants

Vs.

1.Bindhu

2.National Insurance Company Limited,
through its Divisional Manager,
Plot No.101-106, N-1,
BMC house, Connaught Place,
New Delhi - 110001.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and degree dated 18.02.2013 made in M.C.O.P No.894/2010 on the file of the Motor Accidents Claims Tribunal, (III Additional District Sessions Court), Tirunelveli.

For Appellants : Mr.T.Selvakumaran

For Respondents : Ms.K.R.Shivashakari
for Mr.S.Srinivasaraghavan
for R2

JUDGMENT

Heard the learned counsel on either side.

2.The claimants have filed this Civil Miscellaneous Appeal seeking enhancement of the compensation awarded by the Tribunal dated 18.02.2013 made in M.C.O.P No.894/2010 on the file of the Motor Accidents Claims Tribunal, (III Additional District Sessions Court), Tirunelveli. The claimants claimed a sum of Rs.40,00,000/- But the Tribunal awarded only a sum of Rs.8,00,000/-.

3.It is seen that the Tribunal fixed the monthly income of the deceased at Rs.5,000/- in the absence of income proof. The accident took place in the year 2009. Therefore, the monthly income of the deceased can be taken as Rs.6,500/-. The age of the deceased was 27 years on the date of accident. Therefore, the correct multiplier 18 should be adopted. Considering the number of dependants, the deduction can be one fourth. Therefore, the pecuniary loss and the amounts of other heads will have to be re-worked as under :

Sl.No	Heads	Amount in Rupees
1.	Pecuniary loss - 4875x12x18	Rs.10,53,000/-
2.	Loss of consortium	Rs.1,00,000/-
3.	Loss of love and affection for children and parents	Rs.1,00,000/-
4.	For funeral expenses	Rs. 25,000/-
	Total	Rs.12,78,000/-

4.The compensation awarded by the Tribunal is enhanced from Rs.8,00,000/- to Rs.12,78,000/-. The order dated 18.02.2013 made in M.C.O.P No.894/2010 on the file of the Motor Accidents Claims Tribunal, (III Additional District Sessions Court), Tirunelveli is accordingly modified.

5.The first and second respondent insurance company are directed to deposit the entire compensation amount jointly or severally, with interest at the rate of 7.5% per annum and cost from the date of petition till the date of realization, within a period of twelve 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 entitled to withdraw the same as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application.

6.The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The III Additional District Sessions Judge,
Motor Accidents Claims Tribunal, Tirunelveli.



2.The Record Keeper,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.S.SRINIVASA RAGHAVAN Advocate in SR. No. 84770

+1cc to Mr.T.SELVAKUMARAN Advocate in SR. No. 84772

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JS/SV.MMS/SAR.1/27.11.2017/3P-5C

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