



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.277 of 2015

1.K.Mani

2.P.Anitha

P.Palanisamy(Died)

... Appellants

vs

1.V,.Sethuraman

2.The Branch Manager,

United India Insurance Company Limited,

Seethalakshmi Complex,

Tirunagar,

Madurai-6.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.477 of 2011 on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Karur, dated 21.03.2014.

For Appellants : Mr.T.Selvakumaran

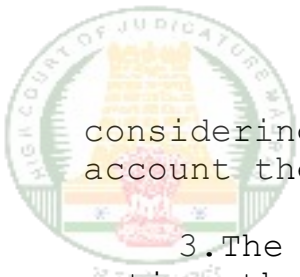
For Respondents : Mr.P.Arunjayaram for R.1
Mr.A.Shajahan for R.2

JUDGMENT

The claimants have filed this Civil Miscellaneous Appeal seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, (Principal District Judge), Karur in M.C.O.P.No.477 of 2011.

2.The lorry belonging to the first respondent herein caused the accident in question on 04.09.2011 in which the husband of the first appellant and the father of the second appellant died. The offending vehicle was insured with the second respondent. Seeking a sum of Rs.10,00,000/- as compensation, M.C.O.P.No.477 of 2011 was filed. The Tribunal awarded a sum of Rs.6,15,112/- with interest. By contending that just compensation was not awarded, this appeal has been filed.

2.The learned counsel for the claimants contended that the deceased was earning a sum of Rs.7,500/- per month. However there was no income proof. Therefore the Tribunal fixed the monthly income of the deceased at Rs.5,000/-. This cannot be said to be incorrect. One third deduction was made. However, the Tribunal



considering the employment of the deceased did not take into account the future prospects.

3. The learned counsel for the second respondent brought to my notice that the decision rendered by the Division Bench of this Court in **2016 (2) TN MAC 784 (DB) (United India Insurance Company Limited Vs. Yasoda)**. In view of the difference of opinion between the coordinate benches of the Supreme court, the matter is presently pending before the larger bench under reference. Therefore, the Tribunal is justified in not taking into account the future prospects of the deceased. The correct multiplier was adopted by the Tribunal. Thus, the loss of income was correctly arrived at Rs.5,60,112/-. However only a sum of Rs.20,000/- was awarded towards loss of consortium for the wife. The first appellant is entitled to a sum of Rs.1,00,000/- under this head. The second appellant being the daughter is entitled to a sum of Rs.50,000/- towards loss of love and affection. Only a sum of Rs.10,000/- was awarded towards funeral expenses. It is enhanced to Rs.25,000/-.

4. The claimants have produced medical bills Ex.P7 which comes to Rs.29,946/-. The sum has to be awarded as such. The compensation payable to the appellants can be reworked as follows;-

Loss of Income : Rs.5,60,112/-

Loss of Consortium for the first appellant : Rs.1,00,000/-

Loss of love and Affection for the second
appellant : Rs. 50,000/-

Funeral Expenses : Rs. 25,000/-

Medical Expenses : Rs. 30,000/-

Rs.7,65,112/-

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compensation awarded by the Tribunal is enhanced from
Rs.6,15,112/- to Rs.7,65,112/-.

7. In the result, the civil miscellaneous appeal is partly allowed in the following terms.

(i) The United India Insurance Company Limited / second respondent is directed to pay the compensation amount as modified by this Court along with proportionate interest and costs from the date of petition till the date of realisation, less the amount already deposited, if any, to the credit of M.C.O.P.No.477 of



2011, dated 21.03.2014, on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Karur, within a period of twelve weeks from the date of receipt of a copy of this judgment.

(ii) The Tribunal had awarded interest at 7.5% per annum from the date of filing of petition. The same is confirmed. The compensation amount has to be apportioned in the same ratio as directed by the Tribunal. Except the modification above, the award is confirmed in all other aspects.

(iii) The claimants are permitted to withdraw their share amount that would be deposited by the Insurance Company, less the amount already withdrawn, if any, with proportionate interest and costs, through RTGS by filing necessary Application before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The (Principal District Judge)
Motor Accident Claims Tribunal, Karur.

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

+1cc to M/S.T.SELVAKUMARAN, Advocate SR.No.82570

+1cc to M/S.A.SHAJAHAN, Advocate SR.No.82511

tsg

MAS/SV-MMS/SAR1:13.11.2017:3P-5C

JUDGMENT MADE IN
C.M.A. (MD) No.277 of 2015
11.10.2017