



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.383 of 2016

1.S.Veera Raghavan
2.V.Sundaramanikandan
3.V.Revathi

... Appellants / Petitioners

Vs.

1.L.Maheswari

2.The Divisional Manager,
M/s.United India Insurance Company Ltd.,
No.7-A, West Veli Street,
Madurai-1.

3.P.Sivakumar

4.The Branch Manager,
M/s.Bajaj Allianz Gen. Insurance Company Ltd.,
No.108, TPK. Road,
Madurai - 1.

5.J.S.Ramakrishnan

(The respondents 3 to 5 are not
necessary party. Hence they
are given up.)

... Respondents / Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.918 of 2009 on the file of Motor Accident Claims Tribunal/Principal District Judge, Madurai, dated 31.01.2012.

For Appellants : Mr.K.Kumaravel

For R-1 : No appearance

For R-2 : Mr.A.S.Mathialagan

For R-3 to R-5 : Given up (vide in E.B)

**J U D G M E N T**

Heard the learned counsel on either side.

2. The claimants have filed this appeal seeking enhancement of the compensation awarded by the Tribunal.

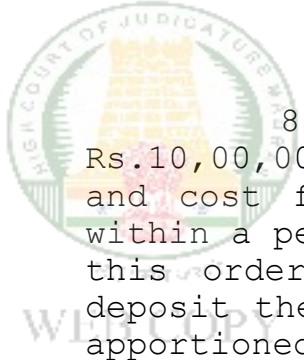
3. One Umamaheswari was travelling in a Qualis car on 07.12.2008 in Pallakad-Vaalayaar Main Road. It met with an accident involving the lorry insured with the second respondent. The said Umamaheswari died. The claimants are the father and the unmarried siblings of the deceased. They filed M.C.O.P.No.918 of 2009 on the file of Motor Accident Claims Tribunal/Principal District Judge, Madurai. The Tribunal gave a specific finding that the accident occurred on account of the negligence of the said lorry driver. The said finding has become final. There is no appeal by the insurance company or the vehicle owner. The claimants have come on appeal, seeking enhancement of the compensation.

4. The Tribunal noted that the claimants are the father and unmarried siblings and therefore they are entitled to a compensation only under the head "loss of love and affection". The Tribunal took the view that the claimants cannot be said to be the dependants of the deceased.

5. This view of the Tribunal is clearly erroneous. The Madras High Court has held on more than one occasion that the legal representatives of the deceased are entitled to maintain a claim for compensation under the Motor Vehicle Act, 1988 and they need not be mere dependants. Therefore the Tribunal erred in restricting the award of compensation to the sole head of "loss of love and affection".

6. In the present case the deceased was aged about 30 years. She was working as a Sub Inspector of Police. She was earning a sum of Rs.12,000/- per month. This is established by Ex.P.14. Considering her age, multiplier 17 has to be adopted. The Hon'ble Supreme Court had recently held that where the persons is a Government employee, 50% future prospects will have to be added. If all these circumstances are taken into account, a substantial sum of compensation will have to be awarded to the claimants.

7. Considering the facts that the claimants are only the father and unmarried siblings, who on their own showing are not dependants of the deceased and taking into account the fact that the value of the Civil Miscellaneous Appeal is confined and restricted to a sum of Rs.10,00,000/-. I am of the view that the appeal can be allowed as prayed for. The award dated 31.01.2012 in M.C.O.P.No.918 of 2009 on the file of Motor Accident Claims Tribunal/Principal District Judge, Madurai, is modified, accordingly.



8. The second respondent directed to pay a sum of Rs.10,00,000/- together 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 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 entitled to withdraw the entire amount as apportioned by the Tribunal by filing proper application before the Tribunal, less the amount already withdrawn by them, if any.

9. Accordingly, the Civil Miscellaneous Appeal is allowed as prayed for. No costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal/
Principal District Judge, Madurai.

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

+1cc to M/s.A.S.MATHIALAGAN Advocate in SR. No. 90161

+1cc to Mr.K.KUMARAVEL Advocate in SR. No. 89820

KMI

JS/JC/SAR.2/2.01.2018/3P-5C

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