



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.11.2017

CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

C.M.A. (MD) No.361 of 2015 and 151 of 2013

1.Karuppaiah
2.Tamaraiselvi
3.Prabu
4.Prakash

... Appellants in CMA 361/2015

1.V.Subbiah
2.S.Anjalai
3.S.Mathiyazhagan
4.Tamilarasi
5.Kala

... Appellants in CMA 151/2013

Vs.

1. P.Subburaj

2. The manager,
Royal Sundaram Allaiyance
Insurance Company Limited,
Sundaram Towers,
45 & 46 White Road,
Chennai - 600 014.

3. M.Anandan

4. The Manager,
The New India Assurance Company Limited,
58, Penthan Road,
Opp. To Govt. Museum,
Chennai - 08.

(R1 & 3 are given up since they were set
exparte before the Court below)

... Respondents in both
appeals

Prayer : These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 to call for and examine the entire records relating to the proceedings in M.C.O.P.No.153 and 488 of 2007 respectively on the file of Motor Accident Claims Tribunal (Principal District Judge) Pudukkottai and set aside the order dated 03.08.2010.

For Appellants in
both appeals

: Mrs.K.Mahalakshmi for
Mr.R.P.Ramachanthiren

Respondents in
both appeals

: Mrs.K.R.Shiva shankari for
Mr.S.Srinivasa Raghavan for R2
Mrs.P.Malini for R4
No Appearance for R3

**JUDGMENT****C.M.A. (MD) No.361 of 2015**

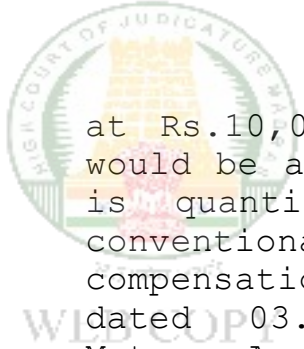
The claimants in M.C.O.P.(MD) No.153 of 2007 have filed this appeal seeking enhancement. The son of the claimants 1 and 2 viz., Karthick died in an accident on 16.11.2005. He had completed his engineering degree and was searching for a job. Since the accident took place in the year 2005, notional income including future prospects can be taken as Rs.6,000/- per month. He was a bachelor. Therefore 50% deduction will have to be made. Applying the multiplier 18 and adding damages under the conventional heads, the compensation payable to the claimants can be quantified at Rs.7,20,000/-. The Tribunal has awarded a sum of Rs.2,49,600/-, which is clearly inadequate. Therefore the compensation is accordingly enhanced to Rs.7,20,000/-. The award dated 03.08.2010 made in M.C.O.P.No.153 of 2007 on the file of Motor Accident Claims Tribunal (Principal District Judge) Pudukkottai is modified accordingly.

2.In both the civil miscellaneous appeals, as far as the negligence is concerned, the Tribunal has rightly held that both the drivers of the vehicle have equally negligence. Therefore, the apportionment of liability to pay the compensation is fixed in the ratio of 50:50.

3.Therefore, the second and fourth respondents are directed to pay a sum of Rs.3,60,000/- each as compensation to the claimants with proportionate interest at the rate of 7.5% per annum and costs, 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 being made, the claimants are permitted to withdraw the entire amount as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal. The appellants are directed to pay the excess Court fee within a period of two weeks from the date of receipt of a copy of this order.

C.M.A. (MD) No.151 of 2013

4.The claimants in M.C.O.P.(MD) No.488 of 2007 have filed this appeal seeking enhancement. The deceased Manoharan was working in Border Security Force. Even though his salary slip was marked showing that he is earning Rs.8692/- per month, the Tribunal chose to fix the monthly income at Rs.3,000/-. This is clearly incorrect. Of course, as a person working in Border Security Force, he would not have served upto the age of 58 years. Nevertheless the fixing of his monthly income at Rs.3,000/- is clearly erroneous. Therefore, this Court fixes his monthly income



at Rs.10,000/-. Since he was a bachelor, a sum of Rs.5,000/- would be available for the family. Therefore, the pecuniary loss is quantified at Rs.10,20,000/-. The damages under other conventional heads will have to be awarded. Therefore the compensation is accordingly enhanced to Rs.10,90,000/-. The award dated 03.08.2010 made in M.C.O.P.No.488 of 2007 on the file of Motor Accident Claims Tribunal (Principal District Judge) Pudukkottai is modified. In other respects, the Award is confirmed.

5. Therefore, the second and fourth respondents are directed to pay a sum of Rs.5,45,000/- each as compensation to the claimants with proportionate interest at the rate of 7.5% per annum, from the date of petition, till the date of realization and costs, 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 being made, the claimants are permitted to withdraw the entire amount as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal. The appellants are directed to pay the excess Court fee within a period of two weeks from the date of receipt of a copy of this order.

6. Both the Civil Miscellaneous Appeals are allowed accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge,
Motor Accident Claims Tribunal
Pudukkottai.

2. The Record Keeper, VR Section, (2 copies)
Madurai Bench of Madras High Court, Madurai.

+2cc to Mr. S. Srinivasa Raghavan, Advocate Sr.No.88386,88390

+2cc to Mr. R. P. Ramachanthiren, Advocate SR.No.88596,88597

+1cc to Mrs. P. Malini, Advocate Sr.No.88238

ARUL

VB/SKN/RSK/SAR4/26.02.2018/3P/9C