



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

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C.M.A (MD) .No.563 of 2014

1.Adaikappa Chettiar
2.Lakshmi Achi
3.Meenal
4.Umayal
5.Chokkumeenal

.. Appellants / Petitioners

Vs.

1.K.Meenakshi

2.The Branch Manager,
New India Assurance Company Limited,
Karaikudi,
Sivagangai District.

.. Respondents/Respondents

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decree of dated 28.02.2003 in M.C.O.P.No.515 of 2000 passed by the Motor Accident Claims Tribunal, Pudukottai, (Fast Track Court), Pudukottai.

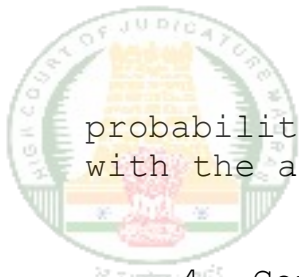
For Appellants : Mr.L.Palanimuthu
For Respondent No.1 : No appearance
For Respondent No. 2 : Mr.S.Ramesh

JUDGMENT

The claimants, who are the parents of the deceased are the appellants. The challenge is to the quantum of compensation.

2.While the claimants had claimed a sum of Rs.15 lakhs as compensation for the death of the only son, the Tribunal had awarded a sum of Rs.95,600/- towards compensation. The Tribunal has taken the monthly income of the deceased at Rs.900/- and after deducting 1/3rd towards his personal expenses had applied a multiplier of 13, considering the age of the dependents and worked out the loss of dependency at Rs.93,600/- and has awarded a sum of Rs.2000/- towards funeral expenses. Thus the total award was Rs.95,600/-.

3.The learned counsel for the appellant would contend that the salary certificate produced was only in respect of the part time employment of the deceased and the deceased is a diploma holder from Annamalai Polytechnic and therefore there was high



probability of the deceased having earned more, if he had not met with the accident.

4. Considering the fact that Ex.A7, which specifically says that the petitioner was only working as a part time employee in M/s.Karthick Raja Steel Industries Company, I do not think that A7 alone could be the basis for computing the income of the deceased. The Hon'ble Supreme Court has pointed out that even in the absence of any evidence to prove income, notional income can be assumed considering the qualification of the deceased person. Considering the fact that the deceased was a diploma holder and he died at the age of 21, I deem it fit to assume the monthly income of the deceased at Rs.4,500/-. The deceased had apart from his parents, three unmarried sisters, though they may not be totally dependent on him. There is no evidence to show that they were earning members.

5. As per the judgment of the Hon'ble Supreme Court in **Sarala Verma and others vs. Delhi Transport Corporation**, the personal expenses could be deducted $1/5^{\text{th}}$ for a victim, who had 5 or more dependents. Therefore, after deducting the sum of Rs.900/-, the monthly loss of dependency is fixed at Rs.3,600/-. The annual loss of dependency works out to Rs.43,200/-. In the very same case, namely in Sarala Verma's case, the Hon'ble Supreme Court has clarified that it is only the age of the deceased that should be taken into account for deciding the multiplier.

6. Admittedly, the deceased was aged 21 years. Therefore 18 is the proper multiplier. Thus the total loss of dependency works out to Rs.7,77,600/-.

7. Apart from the above, the Tribunal has not granted any amount for loss of love and affection for the aged parents. A sum of Rs.50,000/- is granted towards loss of love and affection for the aged parents. Therefore, the appeal is **allowed**. The award of Tribunal is modified as follows:

Head	Rs.
For loss of of dependency	7,77,600
For love and affection	50,000
Funeral expenses	2,000
Total	8,29,600

The above total sum is rounded oabove total sum is rounded off to Rs.8,30,000/-. The Insurance Company shall deposit the amount along with 7.5% interest from the date of petition, till the date of payment, within a period of eight



weeks from the date of receipt of a copy of this order. No Costs.

Sd/-
Assistant Registrar (CS-II)

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/True Copy/

Sub Assistant Registrar

To

The Additional Sessions Judge,
Fast Track Court,
Motor Accident Claims Tribunal,
Pudukottai.

COPY TO:
The Section Officer/Record keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.AL.GANDHIMATHI, Advocate SR.No.61900
+1cc to M/S.V.RAGHAVACHARI, Advocate SR.No.62101

PJL
MAS/SV-MMS/SAR2:04.09.2017:3P-5C

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