



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.978 of 2017

Suba @ Esakkiammal

(The Minor Appellant declared as major
vide Court order dated 15.12.2016,
made in C.M.P.(MD).No.11649 of 2016
in C.M.A.(MD).No.978 of 2017)

... Appellant/2nd Petitioner

Vs.

1.R.Narayanan

2.R.Muthammal

3.National Insurance Company Ltd.,
Aathur Branch,
Through its Branch Manager,
638, Kadalur Main Road,
Ranipettai, Aathur, Salem District.

4.United India Insurance Company Ltd.,
Through its Branch Manager,
Office at 52, G.M.M.Street,
Souwkarpettai,
Chennai District.

... 1 to 4 Respondents/Respondents 1 to4

5.Muppudathi

... 5th Respondent/1st Petitioner

PRAYER: Appeal filed under Section 173 of Motor Vehicles Act, 1988,
against the award dated 28.08.2003 passed in M.C.O.P.No.343 of 2002
on the file of the Motor Accident Claims Tribunal/First Additional
District Judge, Tirunelveli.

For Appellant : Mr.D.Nallathambi

For R3 : Mr.R.Rajamani

For R4 : Mr.A.Ilango

For R1 and R2 : Tabal Returned

For R5 : No appearance

**JUDGMENT**

The daughter of the accident victim has filed this appeal, claiming enhancement of compensation. Her father Thiru.Paramasivan, died in an accident on 05.03.1999. He worked as a lorry driver. The Tribunal, by award dated 28.08.2003, directed payment of a sum of Rs.2,28,000/- as compensation. A sum of Rs.1,28,000/- with interest was already paid to the wife of the deceased/mother of the appellant herein. Since she got remarried, the minor child was brought up by the grandparent. The daughter of the deceased seeks enhancement of the compensation on the ground that the Tribunal did not fix the monthly income properly.

2. Since the deceased was said to be a lorry driver, he certainly would have earned a sum of Rs.3,000/- p.m. By adding future prospects 30% and deducting one third for his personal expenses, the monthly income of the deceased can be fixed at Rs.2,600/-. Since he was aged about 28 years, the relevant multiplier would be 17. Therefore, the pecuniary loss for the family will be Rs.5,30,000/-. A sum of Rs.40,000/- can be added towards loss of love and affection. Further, a sum of Rs.30,000/- can be awarded toward loss of estate and funeral expenses. Therefore, a sum of Rs.6,00,000/- can be quantified as compensation.

3. The mother of the appellant herein has already been awarded a sum of Rs.1,28,000/-. Since she has got remarried, she has not chosen to file an appeal. Only the daughter of the deceased has filed this appeal. Hence, in the interest of justice, I am of the view that the remaining amount of Rs.4,72,000/- can be directly paid to the appellant by the third respondent.

4. The learned counsel appearing for the third respondent submitted that the third respondent had already deposited the award amount of Rs.2,28,000/-.

5. Therefore, the third respondent shall deposit the balance amount of Rs.3,72,000/- in view of the enhancement of the compensation now ordered in this appeal within a period of eight weeks from the date of receipt of a copy of this order. The enhanced amount will carry an interest at the rate of 7.5% from the date of filing of M.C.O.P.No.343 of 2002, till the date of award passed by the Tribunal and again from the date of filing of this appeal till the date of payment. It is seen that even though the award was made on 28.08.2003, the appeal was filed only on 18.07.2016. Therefore, for the period of delay, occasioned in filing this appeal, the claimant will not be entitled to any interest. The appellant is permitted to withdraw the said amount, less the amount already withdrawn by her, if any.

6. THIS Civil Miscellaneous Appeal is allowed. The award dated 28.08.2003 in M.C.O.P.No.343 of 2002 on the file of the Motor



Accident Claims Tribunal/First Additional District Judge,
Tirunelveli, is modified, accordingly. No costs.

Sd/-
Assistant Registrar()

WEB COPY

/True copy/

Sub Assistant Registrar

To

The First Additional District Judge,
The Motor Accident Claims Tribunal,
(I Additional District Court)
Tirunelveli.

Copy to

The Section Officer, Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1cc to Mr.D.Nallathambi, Advocate, SR.No.92415.

+1cc to Mr.R.Rajamani, Advocate, SR.No.92701.

C.M.A.(MD)No.978 of 2017
12.12.2017

kmi

RAM/RP/SAR 4/20.07.2018/3P/6C