



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2017

CORAM

WEB COPY

THE HON'BLE Mr.JUSTICE K.KALYANASUNDARAM
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

CMA(MD)No.70 of 2016
and
C.M.P.(MD)No.1361 of 2016

Branch Manager,
United India Insurance Company Ltd.
Tenkasi.

: Appellant / 3rd Respondent

Vs.

1.Muthuraj
2.Boomari
3.Gnanapraveena

4.Minor Ramya
(R4 Rep. by her natural Guardian/
First Petitioner)

: R1 to R4/Petitioners 1 to 4

5.Kajini
6.Aeyshal Beevi

: R5 & R6/R1 and R2

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order of MACT cum Principal Sub Court, Tenkasi made in MCOP No.228 of 2012 dated 12.09.2014.

For Appellant	: Mr.C.Jawahar Ravindran
For R1 to R4	: Mr.S.S.Thesigan
For 5 th Respondent	: Given up
For 6 th Respondent	: Dispensed with

J U D G M E N T

Being aggrieved over the quantum awarded by the Motor Accident Claim Tribunal (Principal Sub Court), Tenkasi, in MCOP No.228 of 2012, dated 12.09.2014, the Insurance Company has preferred this appeal.

2.MCOP No.228 of 2012 was filed by the legal-heirs of the deceased Saravanan, who died in an accident on 02.04.2012 claiming compensation of Rs.40,00,000/-. The tribunal, upon consideration of oral and documentary evidence, adduced by the parties, awarded Rs.25,87,000/- along with interest @ 7.5% p.a.



3.Mr.C.Jawahar Ravindran, learned counsel for the appellant submitted that admittedly, the deceased was a student of 20 year old at the time of accident and he was a bachelor and in the claim petition, it is stated that he was earning Rs.10,000/- per month, by doing part time work, but the tribunal has taken the monthly income of the deceased as Rs.21,000/- and deducted only $1/3^{\text{rd}}$ towards personal expenses. According to the learned counsel, the employer has given evidence stating that the permanent workers were paid Rs.5,000/- to Rs.6,000/- per month and the deceased, who was a part time employee, was paid Rs.12,000/-, therefore, his evidence has to be rejected as he is not a trust-worthy.

4.Per contra, Mr.S.S.Thesigan, learned counsel for the respondents 1 to 4/claimants contended that the deceased was a bright student and he was doing final year Diploma in Mechanical Engineering and the documents produced by the claimants would show that he has also completed the course of CNC Machine Operation and the tribunal, on proper appreciation of evidence, awarded compensation, therefore, prayed for dismissal of the appeal.

5.We have heard both sides and perused the materials available on record.

6.It is an admitted fact that the deceased was a final year student of Diploma in Mechanical Engineering. Ex.P.23 salary certificate shows that the deceased was paid Rs.12,000/- per month, but the tribunal has fixed his income at Rs.21,000/- stating that after completion of his studies, he would be earning minimum of Rs.21,000/-. After deducting $1/3^{\text{rd}}$ towards his personal expenses, contribution to the family was worked out at Rs.14,000/- and by applying multiplier '14', the tribunal awarded Rs.23,52,000/- [Rs.14,000 x 12 x 14] towards loss of dependency. In addition, the tribunal awarded Rs.2,00,000/- for loss of love and affection, Rs.10,000/- towards transportation and Rs.25,000/- for funeral expenses.

7.From the perusal of the mark sheets and the certificates issued by Susi Automobiles, the Director of Technical Education, Tamil Nadu, NKS Automobile Exs.P12 to P22, it is seen that the deceased was a bright student and it would appropriate to fix the notional monthly income of the deceased at Rs.10,000/-. By adding 50% towards future prospect, the monthly income comes to Rs.15,000/-. Since the deceased was a bachelor, after deducting towards personal expenses, the contribution to the family comes to Rs.7,500/- per month. By applying multiplier '14', this court awards Rs.12,60,000/- [Rs.7500 x 12 x 14] towards loss of income; Rs.1,60,000/- towards loss of love and affection; Rs.30,000/- towards transportation and funeral expenses. Rs.10,000/- awarded by the tribunal under the head of transportation is confirmed. In total, the claimants are entitled to Rs.14,60,000/- with interest @ 7.5% p.a.



8. In the result, this appeal is partly allowed. The award amount of Rs.25,87,000/- is modified to Rs.14,60,000/-. The appellant/Insurance Company is directed to deposit the modified award amount with interest, within a period of eight weeks from the date of receipt of a copy of this judgment, less already deposited. On such deposit, the claimants are permitted to withdraw their share as apportioned by the tribunal. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Sub- Judge,
(Motor Accident Claim Tribunal), Tenkasi.

COPY TO:

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

+1cc to M/S.C.Jawahar Ravindran, Advocate SR.No. 89223
+2cc to M/S.S.S.Thesigan, Advocate SR.No. 89562

C.M.A(MD)No.70 of 2016
24.11.2017

skn/das/er
JM/SKN RSK/SAR 1/17.01.2018/3P/7C