



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.M.A.(MD)No.822 of 2014

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Gayathri

... Appellant/Petitioner

Vs.

1. Palani

2. ICICI Lombard Motors Insurance Company Ltd,
through its Branch Manager,
Zenith House, Keshavrao Khada Marg,
Mahalakshmi, Mumbai - 4000034.

3. Gomathi

4. Pushbam

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.09.2013 made in MCOP.No.222 of 2009 on the file of the Motor Accident Claims Tribunal, 1st Additional District Court, Tirunelveli.

For Appellant

: Mr.T.Selvakumaran

For Respondents

: Mr.A.Muthukarupan for R3 and R4

R1 - No appearance

Mr.K.K.Ramakrishnan for R2

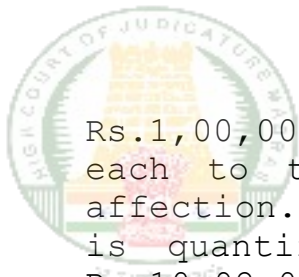
JUDGMENT

One of the claimants has filed this appeal seeking enhancement of the compensation awarded to her.

2. One Mariyappan died in an accident caused by the vehicle insured with the second respondent herein. The wife of the deceased filed MCOP.No.222 of 2009 on the file of the Motor Accident Claims Tribunal, 1st Additional District Court, Tirunelveli and the dependents filed MCOP.No.919 of 2011. Both MCOPs were heard together and by a common award dated 04.09.2013, a sum of Rs.9,95,000/- was awarded with interest. Considering that the Tribunal erred in taking the monthly income at Rs.4,500/- this appeal for enhancement has been filed.

3. Heard the learned counsel on either side.

4. Admittedly, the deceased was a driver by avocation. I am therefore of the view that the monthly income should have been taken as Rs.5,000/- and future prospects at the rate of 40% should have been added. After deducting the one third income, the monthly income of the deceased would come to Rs.4666/-. Therefore, the pecuniary loss for the family will be Rs.9,51,864/- (Rs.4666X12X17). The wife of the deceased entitled to a sum of



Rs.1,00,000/- towards loss of consortium. A sum of Rs.20,000/- each to the parents can be given towards loss of love and affection. Thus, the total compensation payable to the claimants is quantified at Rs.10,91,864/-. It can be rounded off to Rs.10,92,000/-.

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5.The compensation payable to the claimants is enhanced from a sum of Rs.9,65,000/- to a sum of Rs.10,92,000/-. The common award dated 04.09.2013 passed by the Motor Accident Claims Tribunal, 1st Additional District Court, Tirunelveli is modified.

6.The second respondent insurance company is directed to deposit the sum of Rs.10,92,000/- with 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 eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the wife of the deceased, the appellant is entitled to withdraw a sum of Rs.6,92,000/- and the remaining amount will be taken in equal shares by the parents of the deceased, by filing proper application before the Tribunal, less the amount already withdrawn by them, if any. Registry is directed to collect the excess Court fee from the appellant within a period of two weeks from the date of receipt of a copy of this order.

7.This appeal stands allowed. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The 1st Additional District Court,
Motor Accident Claims Tribunal, Tirunelveli.

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

+1cc to Mr.T.Selvakumaran, Advocate Sr.No.94171

+1cc to Mr.K.K.Ramakrishnan, Advocate Sr.No.93998

SKM

VB/RSK/SAR2/12.11.2018/2P/6C

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