



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANC.M.A. (MD) No.706 of 2016 and
CMP (MD) No.7234 of 2016

The Divisional Manager,
United India Insurance Co., Ltd,
South Street, Thanjavur-613009. ... Appellant/2nd Respondent

Vs.

1.Saroja
2.Nishanthi
3.Nijanthan ... Respondents 1 to 3/
Petitioners 1 to 3
4.K.Thirumurugan ... 4th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.12.2015 made in MCOP.No.1462 of 2014 on the file of the Motor Accident Claims Tribunal, (Additional District Judge cum E.C Judge), Thanjavur.

For Appellant : Mr.C.Karthik
For Respondents : Mr.S.Rajaprabu for R1 to R3
R4-No appearance

JUDGMENT

Heard the learned counsel on either side.

2.The insurance company has filed this appeal questioning the impugned award dated 28.12.2015 made in MCOP.No.1462 of 2014 on the file of the Motor Accident Claims Tribunal, (Additional District Judge cum E.C Judge), Thanjavur mainly on the ground of quantum.

3.The deceased Narayanasamy was working in BSNL as Telecom Mechanic. He was riding his two wheeler on 21.09.2014 when the two wheeler insured by the appellant dashed against him. In the resulting accident, the said Narayanasamy passed away. His wife and children filed MCOP.No.1462 of 2014. He was earning a sum of Rs.39,106/- per month at the time of accident. The pay slip was marked as Ex.P5. The Tribunal quantified the compensation payable to the claimant on that basis and awarded a sum of Rs.37,16,240/- with interest. Contending that split multiplier method must have been adopted, this appeal has been filed.

4. The learned counsel appearing for the appellant pointed out that the deceased was an employee of the BSNL. He was aged about 55 years at the time of accident. His retirement age was 60. Therefore, he would earn a sum of Rs.39,106/- only for five more years. Therefore, applying multiplier 11 by taking into account the said salary amount is not correct. According to the appellant, in this case split multiplier method must have been adopted. He would place reliance on the decision of the Hon'ble Supreme Court reported in **2014 1 TNMAC 481 (Puttamma vs. K.L.Narayana Reddy)**. The Hon'ble Supreme Court in the said decision after referring to the decision reported in **(2011) 4 SCC 689 (K.R.madhusudhan and Others Vs. Administrative Officer and another)** held that in the absence of any documentary evidence courts should not apply split multiplier method in a routine course.

5. In the present case, there is evidence on record to show that the deceased was aged 55 years and he would have retired at the age of 60. Therefore, I sustain the contention of the learned counsel appearing for the appellant that split multiplier method must be adopted. The Tribunal erred in not adopting the split multiplier method.

6. Since the deceased was working in BSNL, the income tax deduction from his monthly salary also will have to be deducted at 10% for the left over service of the deceased. Since the deceased was aged 55 years, the multiplier 11 will have to be adopted and 15% future prospects will have to be added. The compensation payable to the claimants will have to be reworked as under :

Monthly salary of the deceased	Rs.39,106/-
15% future prospects	Rs.5865/-
Total	Rs.44971/-
Deduction of 10% Income Tax	Rs.4497/-
Balance	Rs.40474/-
1/3 rd Deduction from the salary	Rs.26,983/-
Loss of income upto retirement	Rs.26983x12x5
	Rs.16,18,980/- (A)
Loss of Income after retirement	
50% of Rs.44,971/-	Rs.22485/-
After 1/3 rd Deduction, the pecuniary loss (14,990x12x6)	Rs.10,79,280/- (B)
Total loss of income (A+B)	Rs.26,98,260/-
Loss of love and affection	Rs.1,60,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total Compensation	Rs.28,88,260/-



7. Thus, the total compensation payable to the claimants is quantified at Rs.28,88,260/-. Accordingly, the award dated 28.12.2015 made in MCOP.No.1462 of 2014 on the file of the Motor Accident Claims Tribunal, (Additional District Judge cum E.C Judge), Thanjavur is modified.

8. The appellant insurance company is directed to deposit the entire compensation amount 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. Thereafter, the appellant insurance company is permitted to recover the paid amount from the fourth respondent in these very proceedings. On such deposit, the wife of the deceased namely Saroja, the first respondent herein is entitled to a sum of Rs.17,16,240/- with accrued interest and the balance amount shall be taken in equal shares by the children of the deceased with accrued interest, by filing proper application before the Tribunal, less the amount already withdrawn by them, if any.

9. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District Judge cum E.C Judge,
Motor Accident Claims Tribunal, Thanjavur.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.C.KARTHIK, ADVOCATE IN SR No. 90822
+ 1 CC TO Mr.S.RAJAPRABU, ADVOCATE IN SR No. 90987

SKM

TE/PN/SAR-1 : 13/07/2018 : 3P/6C

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