



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.755 of 2015

1.Sumithra
2.Minor Anbu Selvan
(Minor 2nd petitioner represented through his mother
and friend 1st petitioner herein)
3.Ponniah
4.Vellathai ... Appellants/Petitioners

Vs.

1.Santhana Mariappan
2.Kumarasamy
3.Royal Sundaram Alliance Insurance Company Limited,
Through its Branch Manager,
First Floor, Sri Krishna Plaza,
No.1, Natchiappa Street,
Erode. ... Respondents/Respondents

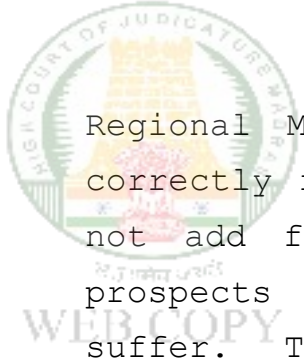
Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.269 of 2012 on the file of the Motor Accident Claims Tribunal, (IV Additional District Court), Tirunelveli, dated 18.09.2012.

For Appellants : Mr.T.Selvakumaran
For Respondents : No Appearance for R1
R2-Dispensed with memo filed
on 14.06.2016
Mr.M.Jerin Mathew for
Mr.M.E.Ilango for R3

JUDGMENT

Heard the learned counsel on either side.

<https://hcservices.courtserviceindia.org/> The Plaintiff has filed this appeal seeking enhancement. The deceased was one Velmurugan, aged 32 years. He was working as a



Regional Manager in Tablets (India) Limited. The Tribunal has correctly fixed the monthly income at Rs.22,600/-. It however did not add future prospects. It chose to square off the future prospects with the income tax deduction which he will have to suffer. This is not correct. If future prospects are added, the monthly income of the deceased can be rounded off to Rs.30,000/-. After deducting $1/3^{\text{rd}}$ what would be available for the family is Rs.20,000/- per month. After adopting multiplier 16, the pecuniary loss can be quantified at Rs.38,40,000/-. After adding damages under the conventional heads, the amount would come to Rs.40,00,000/-. The Tribunal has fixed the contributory negligence at 25% on the deceased. Therefore the compensation payable to the claimants would come to Rs.30,00,000/-. At the same time, 10% will have to be deducted for income tax. Therefore, the claimants are entitled to Rs.27,00,000/-. The third respondent insurance company must furnish Form 16 to the claimant as proof of tax deduction at source.

3.The award dated 18.09.2012 made in M.C.O.P.No.269 of 2012, on the file of the Motor Accident Claims Tribunal, (IV Additional District Court), Tirunelveli is modified accordingly.

4.The third respondent insurance company is directed to deposit the entire compensation amount of Rs.27,00,000/- 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. The share of the minor claimant too shall be deposited in any one of the Nationalised Bank. The natural guardian, the First Appellant is permitted to withdraw the interest there from once in three months directly from the Bank. On such deposit, the claimants are entitled to withdraw the same by filing proper application as apportioned by the Tribunal, less the amount already withdrawn by them, if any.



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

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The IV Additional District Judge,
The Motor Accidents Claims Tribunal,
(IV Additional District Court),
Tirunelveli.

Copy to:

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

+1cc to M/S.M.E.ILANGO, Advocate SR.No.86222.
+1cc to M/S.T.SELVAKUMARAN, Advocate SR.No.85882.

C.M.A. (MD) No.755 of 2015
07.11.2017

tsg
SDS/SKN:RSK/SAR 4/18.12.2017/3P/5C