



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.792 of 2015

and

M.P (MD) No.3 of 2015

United India Insurance Company Limited,
through its Branch Manager,
No.406, Periyakulam Road,
Theni.

... Appellant/2nd Respondent

Vs.

1.A.Baseera Begum
2.A.Mastan
3.A.Mubarak
4.A.Rajeena Begum
5.A.Samsudeen
6.A.Siddiq Mohammed
7.G.Karuppasamy

... Respondents/Petitioner 1 to 6
and 1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the order and degree dated 19.09.2013 made in M.C.O.P No.93/2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Periakulam.

For Appellant : Mr.A.S.Mathialagan

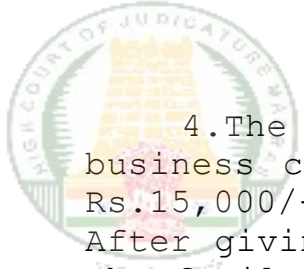
For Respondents : Mr.R.Shankar Ganesh for
RR1 to 6
No appearance for R7

JUDGMENT

Heard the learned counsel on either side.

2.The Insurance Company has filed this Civil Miscellaneous Appeal questioning the award dated 19.09.2013 made in M.C.O.P No.93/2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Periakulam on the ground of quantum.

3.The deceased Hassan Mohammed died in an accident on 05.07.2012. The first claimant is the wife while the others are children. The second claimant was aged 36 years. Therefore, it is reasonable to presume that the deceased would have been aged about 58 years.



4.The Tribunal after taking into account the nature of business carried on by the deceased, fixed the monthly income at Rs.15,000/-. The deceased was a wholesale dealer in Coconut. After giving one third deduction, the monthly income available for the family was quantified at Rs.10,000/-. This cannot be said to be incorrect. Therefore, the pecuniary loss was rightly arrived at. In fact, the damages awarded under other heads such as loss of consortium, loss of love and affection, funeral expenses etc., are not really adequate. Therefore, on an over all view, the compensation awarded by the Tribunal cannot be said to be excessive. The appellant has not made out any ground to interfere. The Tribunal has also given due apportionment.

5.The appellant insurance company is directed to deposit the entire compensation amount as awarded by the Tribunal, with interest at the rate of 7.5% per annum and costs, from the date of petition till date of realization, within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the said sum, less the amount already withdrawn by them, if any, as apportioned by the Tribunal, by filing proper application before the Tribunal.

6.This Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Periakulam.

Copy to

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

+1cc to Mr.R.Shankar Ganesh , Advocate Sr.No.85094

+1cc to Mr.A.S.Mathialagan, Advocate Sr.No.84936

SKM

VB/KK/SAR1/16/11/2017/2P/5C

**C.M.A. (MD) No.792 of 2015
and**

**M.P (MD) No.3 of 2015
31.10.2017**