



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.865 of 2015

and

C.M.P (MD) No.8835 of 2017

1.Esther

2.Minor Malathy
(Minor is rep.by her mother
and natural guardian, 1st appellant)

3.Sasikala Devi

4.R.Chandramohan ... Appellants/Petitioners

Vs.

1.Devapitchai Gnanaiah

2.The Branch Manager,
United India Insurance Company Ltd,
Door No.560 X,
Kandan Complex 2nd Floor,
Valliyoor,
Tirunelveli District. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and degree dated 05.02.2015 made in M.C.O.P No.23 of 2014 on the file of the Motor Accidents Claims Tribunal, (II Additional District Judge), Tirunelveli.

For Appellants : Mr.V.Sasikumar

For Respondents : Mr.J.S.Murali for R2

R1 given up.

JUDGMENT

Heard the learned counsel on either side.



Accidents Claims Tribunal, (II Additional District Judge), Tirunelveli on the ground of quantum.

3.The deceased Sivakumar was aged 37 years when he died. The claimants alleged that he was doing book binding work and earned a sum of Rs.45,000/- per month. To sustain their claim as he was earning such a sum, Exs.P6 and P9 were marked. A perusal of the said exhibits would show that during the year 2012-13 the deceased was doing a contract work, for which a sum of Rs.4,92,230/- was received by him. It is not brought on record when the deceased commenced the business and for how long he was running it and how much income was reflected in the income tax returns.

4.Therefore, the Tribunal proceeded on the premise that his monthly income should be taken as Rs.8,000/-. I am of the view that the future prospects had to be taken into account. The monthly income can be fixed at Rs.12,000/-. Considering the number of dependants, one fourth deduction will have to be made. Therefore, the compensation payable to the claimants can be re-worked as under :

Sl.No	Heads	Amount in Rupees
1.	Pecuniary loss - 9,000x12x15	Rs.16,20,000/-
2.	Loss of consortium	Rs.1,00,000/-
3.	Loss of love and affection for children	Rs.1,00,000/-
4.	Loss of love and affection for mother	Rs.50,000/-
4.	For funeral expenses	Rs.25,000/-
	Total	Rs.18,95,000/-

5.The compensation awarded by the Tribunal is enhanced from Rs.11,70,000/- to Rs.18,95,000/-. The award 05.02.2015 made in M.C.O.P No.23 of 2014 on the file of the Motor Accidents Claims Tribunal, (II Additional District Judge), Tirunelveli is accordingly modified.

6.The second respondent insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum and costs, from the date of petition till the date of realization, 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 claimants are entitled to withdraw the same as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application. the share of the minor claimant shall be deposited in any one of the National Bank and the natural guardian is entitled to withdraw the interest thereon once in three months directly from the bank.



7.The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

SKM

To

The Motor Accidents Claims Tribunal,
(II Additional District Judge), Tirunelveli

Copy to : The Record Keeper,
Madurai Bench of Madras High Court, Madurai.

+1. C.C. to Mr.J.S.Murali, Advocate SR.No.84975

+1. C.C. to Mr.V.Sasikumar, Advocate SR.No.84640

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PK/GT/SAR-1/02.01.2018 : 3P/5C