



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.885 of 2015

and

MP (MD) No.3 of 2015

United India Insurance Company Limited,
Rep.by its General Manager,
No.52, General Muthaiya Street,
Sowkkarpettai, Chennai.

... Appellant/Respondent No.3

Vs.

1.Kristuraj
2.Nixon
3.Minor.Aksino
(Minor rep.by Guardian,
1st respondent)

... 1 to 3 Respondents/
Petitioners 1 to 3

4.Rajamanickam
5.Balaji

... 4 & 5th Respondents/
Respondents 1&2

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree order made in MCOP.No.90 of 2013, dated 05.04.2014 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Nagercoil.

For Appellant : Mr.C.Jawahar Ravindran
For Respondents : Mr.R.Gowri Shankar
for RR1 to 3
RR4 & 5 given up.

JUDGMENT

Heard the learned counsel on either side.

2.The insurance company is on appeal questioning the award made in MCOP.No.90 of 2013, dated 05.04.2014 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Nagercoil.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The deceased Sujana was a bachelor. He is survived by the claimants brothers alone. The accident took place on 02.06.2006.

He was said to have worked as a labour in a sand quarry. The Tribunal has taken monthly income of the deceased at Rs.11,920/-. There is no basis for such income fixation. The deceased was not educationally qualified. No income proof was filed. The accident had taken place in the year 2006. Therefore, the notional income can be fixed at Rs.4,500/-. Adding 50% future prospects, the monthly income of the deceased would come to Rs.6,750/-. Since the deceased was a bachelor, 50% reduction will have to be made.

4.The claimants filed Ex.P18 in respect of their contention that the deceased was earning a sum of Rs.11,920/- per month as salary. But, the author of the document was not examined. Therefore, this Court has to proceed on the premise that there was no legally acceptable proof in respect of the claim with regard to the monthly earning of the deceased.

5.Therefore the compensation payable to the claimants re-worked as under :

Sl.No.	Heads	Amount in Rs.
1.	Pecuniary loss 3375x12x17	Rs.6,88,500/-.
2.	For loss of love affection	Rs. 30,000/-
3.	For funeral expenses	Rs. 25,000/-
4.	For loss of estate	Rs. 30,000/-
	Total	Rs.7,73,500/-

6.The compensation payable to the claimants is reduced from 11,43,760/- to Rs.7,73,500/-. The award dated 05.04.2014 made in MCOP.No.90 of 2013 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Nagercoil is accordingly modified.

7.The appellant insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum with cost, 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, less the amount already withdrawn by them, if any, as apportioned by the Tribunal by filing proper application. The insurance company is entitled to get back the balance amount, if any.

8.This Civil Miscellaneous Appeal is partly allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)



To

1. The Motor Accidents Claims Tribunal cum
Chief Judicial Magistrate,
Nagercoil.

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

+ 1 CC TO Mr.C.JAWAHAR RAVINDRAN, ADVOCATE IN SR No. 84275

+ 1 CC TO Mr.R.GOWRI SHANKAR, ADVOCATE IN SR No. 84301

SKM

TE/JC/SAR-1 : 11/12/2017 : 3P/5C

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