



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2017

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) .No.503 of 2017

and

C.M.P. (MD) .Nos.5377 & 11449 of 2017

The Branch Manager,
National Insurance Co.Ltd,
786, Tenkasi Road,
Rajapalayam-626 117,
Virudhunagar.

... Appellant/Respondent 2

Vs.

1.Noorjahan
2.Mumtaj
3.Mubarak
4.Mohamed sarif

... Respondents/Petitioners

5.Gajendraraja

... Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to against the Judgment and Decree dated 23.03.2016 made in M.C.O.P.No.32 of 2013 on the file of the Motor Accident Claims Tribunal cum Sub Court, Aruppukottai.

For Appellant : Mr.R.Rajamani
For Respdnts : Mr.S.M.A.Jinnah

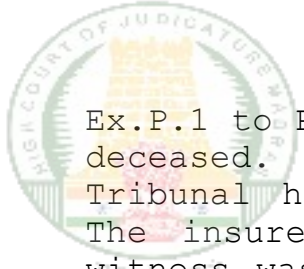
JUDGMENT

The insurer has filed this appeal questioning the impugned award on the ground of quantum.

2. The deceased Mustafa was riding a two-wheeler on 30.05.2012, when the car insured with the appellant, hit the two wheeler. A case was registered in Crime No.392 of 2012 on the file of the B.1 Melur Police Station, Madurai. The claimants, namely, the wife and children of the deceased filed M.C.O.P.No.32 of 2013 on the file of the Motor Accident Claims Tribunal cum Sub Court, Aruppukottai.

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

3. The claimants were examined as P.W.1 and P.W.2 and marked



Ex.P.1 to P.6. Ex.P.6 is the pay slip issued by the employer of the deceased. It states that the monthly salary was Rs.25,000/-. The Tribunal however chose to fix the monthly income at Rs.15,000/-. The insurer did not adduce any rebuttal evidence. Neither any witness was examined on the side of the appellant nor any document was marked. I am therefore of the view that fixing of the monthly income at Rs.15,000/- by the Tribunal is correct.

4.The learned counsel appearing for the appellant contended that an excessive amount was awarded by way of compensation. Since the basic facts are not in dispute, it is possible to rework the compensation payable to the claimants.

4(1).The monthly income of the deceased was taken as Rs.15,000/-. Considering, the fact that the deceased was employed at Chattisgarh and that except the wife, others are aged above 30 years, one can safely conclude that a sum of Rs.10,000/- would have been available for the family. Even if the one third deduction was made, the same figure will be arrived at. Since his age was 52 years the relevant multiplier will be 11. Therefore, the pecuniary loss to the family will be (Rs.10,000/- x 12 x 11) Rs.13,20,000/-. The wife is entitled to get a sum Rs.40,000/- as loss of consortium. For the daughter, a sum of Rs.40,000/- and for three sons totally a sum of Rs.60,000/- can be awarded towards loss of love and affection. For funeral expenses Rs.15,000/- can be awarded. The claimants are therefore entitled to a sum of Rs.14,75,000/- as compensation.

2.The compensation awarded by the Tribunal is reduced from Rs.18,17,000/- to Rs.14,75,000 /-. The appellant Insurance company is directed to deposit the entire compensation amount of Rs.14,75,000 /- 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, claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, less the amount already withdrawn by them, if any by filing proper petition before the Tribunal.

5.The award dated 23.03.2016 made in M.C.O.P.No.32 of 2013 on the file of the Motor Accident Claims Tribunal cum Sub Court, Aruppukottai is modified, as indicated above. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (AD-II)

/True Copy/



The Subordinate Judge,
The Motor Accident Claims Tribunal,
Aruppukottai.

Copy To:-

The Section Officer, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.R.RAJAMANI, ADVOCATE IN SR No. 94094

KMI

TE/RSK/SAR-2 : 16/07/2018 : 3P/5C

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