



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2017

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THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.(MD) No.1836 of 2013

and

M.P.(MD) No.3 of 2013

The Oriental Insurance Company Limited,
No.1858, South Main Road,
Thanjavur.

... Appellant/2nd Respondent.

-Vs-

1.Rajeshkannah

2.M.S.Subramaniam & Company

...Respondents/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award made in M.C.O.P.No.222 of 2007 dated 30.03.2012, on the file of the Motor Accidents Claims Tribunal cum Principal Subordinate Judge, Thanjavur.

For Appellant : Mr.K.Bhaskaran

For R1 : Mr.D.Selvanayagam

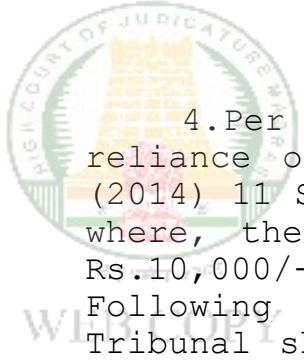
For R2 : No Appearance

JUDGMENT

This instant appeal has been filed by the appellant insurance company against the award made in M.C.O.P.No.222 of 2007 dated 30.03.2012, on the file of the Motor Accidents Claims Tribunal cum Principal Subordinate Judge, Thanjavur.

2.Even though, various grounds were raised by the appellant, in the grounds of appeal, the learned counsel for the appellant has restricted his submission only to the ground that notional income fixed by the Tribunal was on the higher side and is incorrect. He submitted that the notional income ought to have been fixed at Rs.3,000/- and not Rs.4,000/-.

3.According to the learned counsel for the appellant, the date of accident is 17.05.2005 and therefore, the notional income should have been fixed at Rs.3,000/- which is the notional income generally fixed by the Tribunals following the decisions of this Court and the honourable Supreme Court for the year 2005.



4.Per contra, learned counsel for the first respondent placed reliance on the judgment of Honourable Supreme Court reported in (2014) 11 Supreme Court Cases 178, V.Mekala Vs. M.Malathi and anothor where, the Honourable Supreme Court had fixed notional income at Rs.10,000/- for the accident that had taken place on 11.04.2005. Following the said Judgment of the Honourable Supreme Court, the Tribunal should have fixed the notional income of the deceased at Rs.10,000/-, since the year of the accident in the instant case is also in 2005. The learned counsel for the first respondent submitted that since the first respondent has not filed any appeal seeking enhancement of compensation, the first respondent is satisfied with the award passed by the Tribunal. Therefore, according to him the award passed by the Tribunal fixing the notional income at Rs.4,000/- does not warrant interference by this Court.

5.This Court is in agreement with the submissions made by the learned counsel for the first respondent and finds no infirmity or illegality in the award passed by the Tribunal.

6.Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, M.P.(MD)No.3 of 2013 is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To
The Principal Subordinate Judge,
Motor Accidents Claims Tribunal cum Principal Subordinate Court,
Thanjavur.

Copy to:

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

+1CC to Mr.D.Selvanayagam, Advocate, SR.No. 93569
+1CC to Mr.K.Bhaskaran, Advocate, SR.No. 93597

C.M.A. (MD) No.1836 of 2013
19.12.2017

smi