

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 09.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**C.M.A. (MD) No.619 of 2013****and****M.P. (MD) Nos.1 and 2 of 2013**

The Oriental Insurance Co. Ltd.,
Divisional Office,
Namakkal.

... Appellant/2nd Respondent

Vs.

1.Gnanasambandham
2.Indirani

... Respondents 1 & 2/Petitioners 1 & 2

3.S.Kandasamy ... 3rd Respondent/ 1st Respondent
(3rd Respondent remained exparte before the Tribunal.)

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in M.C.O.P.No.8 of 2006, dated 25.04.2008, on the file of the Motor Accident Claims Tribunal - Sub Court, Kulithalai.

For Appellant : Mr.K.Bhaskaran

For Respondents : Mr.N.C.Ashok Kumar for R.1

No appearance for R.2

R.3 - Exparte before Tribunal

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JUDGMENT

By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final hearing.

2. The Insurance Company has filed this appeal against the award made in M.C.O.P.No.8 of 2006 on the file of the Motor Accident Claims Tribunal - Sub Court, Kulithalai. The said M.C.O.P., was filed by the parents of one Pragadeeswaran, who died in a motor accident on 14.07.1999. They claimed a compensation of Rs.7,00,000/- (Rupees Seven Lakhs only). The Tribunal has awarded a sum of Rs.4,66,000/- (Rupees Four Lakhs and Sixty Six Thousand only).



3. Aggrieved by the same, the present appeal has been filed by the Insurance Company.

4. The learned Counsel for the appellant/Insurance Company would submit that the Tribunal has erred in adopting multiplier '17' taking into account the age of the deceased. According to him, the age of the youngest of the claimants, namely, the age of the mother of the deceased should be taken into consideration.

5. The Tribunal has adopted the annual income of the deceased as Rs.40,000/- (Rupees Forty Thousand only) and after deducting 1/3rd amount towards his personal expenses, has calculated the loss of dependency at Rs.4,54,000/- (Rupees Four Lakhs and Fifty Four Thousand only). The Tribunal has awarded a sum of Rs.5,000/- (Rupees Five Thousand only) each to the parents of the deceased towards loss of love and affection and a sum of Rs.2,000/- (Rupees Two Thousand only) for funeral expenses. Though the multiplier '17' adopted by the Tribunal based on the age of the deceased, as on the date of the accident, may not be correct, in view of the march of law and subsequent decisions of the Honourable Supreme Court, in which, it has been held that the multiplier should be based on the age of the deceased and not the claimants, I do not see any scope for interference with the multiplier.

6. Insofar as the monthly income of the deceased is concerned, the deceased was aged about 25 years and it is stated that he was working as a Manager in Srinivasa Earth Movers in 1999.

7. Considering the avocation of the deceased, the monthly income of Rs.4,000/- (Rupees Four Thousand only) fixed by the Tribunal is also reasonable. The Tribunal has rightly deducted 1/3rd amount for his personal expenses. In fact, a sum of Rs.5,000/- (Rupees Five Thousand only) each awarded to the parents of the deceased towards loss of love and affection is on the lower side. Considering the fact that the multiplier adopted is 17, I do not think that there is any scope for interference.

8. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the award of the Tribunal, dated 25.04.2008, passed in M.C.O.P.No.8 of 2006, on the file of the Motor Accident Claims Tribunal - Sub Court, Kulithalai.No costs. Consequently, the connected miscellaneous petitions are dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

1.The Motor Accident Claims Tribunal -
Sub Court, Kulithalai.

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

+1cc to Mr.K.Bhaskaran, Advocate in SR.No.59513

+1cc to Mr.N.C.Ashok kumar, Advocate in SR.No.59670

rsb

AE/MR/SAR3/19.06.2017/3P/5C

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