



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.787 of 2017

1.Paritha
2.Vanitha
3.Pavalavalli

... Appellants/Petitioners

Vs.

1.Prabakaran
2.The Manager,
United India Insurance Co. Ltd.,
No.61/2694-1st Floor,
(Indian Bank Upstairs),
South Main Street, Thanjavur.
3.Bharathiraja
4.The Branch Manager,
Cholamandalam M/s.General Insurance Co., Ltd.,
1st Floor, Meena Agencies Upstairs,
2661-South Main Street,
Thanjavur.

... Respondents/Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 23.06.2017, made in MCOP No.1000 of 2016 on the file of the learned Special District Judge/Motor Accident Claims Tribunal, Thanjavur.

For Appellants : Mr.T.Selvakumaran

For Respondents : Mr.C.Jawahar Ravindran - for R2
No Appearance - for R1,R3,R4

JUDGMENT

Not satisfied with the compensation awarded by the Tribunal, the appellants/claimants have filed the present appeal seeking enhancement on the quantum of compensation.

2. Heard the learned Counsel on either side and perused the records carefully.

3. The learned Judge has taken the income of the deceased as Rs.3,050/- per month. The deceased was aged 60 years at the time of accident. Perusal of the Ex.P.11 Pension Payment Order shows that deceased was receiving a sum of Rs.3,050/- as family pension.



4. The learned Counsel for the 2nd respondent would submit that all the daughters of the deceased have already got married.

5. The learned Counsel for the appellants would submit that though the deceased's husband died earlier, she, as a widow woman, had put all her efforts to get her daughters married. It is seen that the deceased engaged herself in milk vending, agricultural work to augment income and therefore, in my considered opinion, the learned Judge is not justified in taking the pension alone. Though she has received a sum of Rs.3,050/- as pension and there is no proof for other income, the effort of the deceased in getting her daughter married, is, by itself, a proof for augmented income and therefore, the income arrived at by the learned judge, in my considered opinion, is very meagre. Considering the facts and circumstances of the case, it would be appropriate if the notional income of the deceased is taken at Rs.5,000/- per month.

6. Therefore, the loss of dependency arrived at by the tribunal deserves interference at the hands of this Court and the same reads as under:

- (Income of the deceased - 1/3rd personal expenses) is (Rs.5,000/- - Rs.1,667/-) amounts to Rs.3,333/-.
- By applying the multiplier method, it would be (Rs.3,333/- * 12 * 9) amounting to Rs.3,59,964/- and rounded to Rs.3,60,000/-.
- Therefore, the loss towards dependency is increased and the same is fixed at Rs.3,60,000/-, instead of Rs.2,19,564/-.

7. Insofar as the other heads are concerned, it is seen that the tribunal, after considering all the aspects, has rightly awarded the compensation and therefore, the same does not deserve any interference.

8. In result, this civil miscellaneous appeal is partly allowed and

- the compensation awarded by the tribunal is enhanced and the total award amount is fixed at Rs.4,35,000/- (Rs.2,94,564/- awarded by the tribunal + Rs.1,40,436/- enhanced by this Court).
- The 2nd respondent/ Insurance Company is directed to deposit the sum of Rs.4,35,000/- [Rupees Four Lakh Thirty Five Thousand only] with interest at the rate of 7.5% per annum for the enhanced amount from the date of appeal till the date of realization, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment.
- On such deposit being made, the claimants are permitted to withdraw the same with accrued interests and costs, as apportioned by the tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.
- As far as pay and recovery is concerned, the tribunal, after analyzing the entire facts and circumstances, has rightly



arrived at a decision - pay and recovery, i.e., directing the second respondent to deposit the award amount and recover the same from the first respondent, which does not warrant any interference at the hands of this Court and therefore, the same stands confirmed.

- There shall be no order as to costs.

Sd/-

Deputy Registrar(Lok Adalath/MAC)

/True copy/

Sub Assistant Registrar

To

The Special District Judge,
Motor Accident Claims Tribunal,
Thanjavur.

Copy to

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

+1cc to M/s.T.Selvakumaran, Advocate, SR.No.62406.

+1cc to M/s.C.Jawahar Ravindran, Advocate, SR.No.62515.

C.M.A(MD).No.787 of 2017
18.04.2018

rm

RAM/KKR/SAR 3/05.06.2018/3P/6C