



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.68 of 2016

1.Natarajan
2.Chellapoo
3.Muthuselvi

.. Appellants/Petitioners

Vs.

1.Jayakumar

2.The New India Assurance Company Limited,
through its Branch Manager,
No.161-A, East Veli Street,
Madurai.

3.Mohanvel

4.Reliance General Insurance Company Limited,
through its Branch Manager,
No.408, 3rd Floor, Perundurai Road,
Erode.

.. Respondents/Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in MCOP No.1225 of 2013 on the file of Motor Accident Claims Tribunal, (II-Additional District Court), Tirunelveli, dated 15.10.2014.

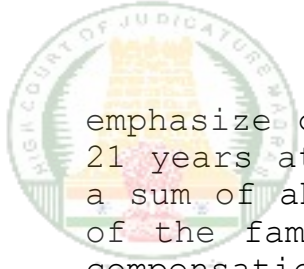
For Appellants	: Mr.D.Selvakumaran
For Respondent No.1	: No appearance
For Respondent No.2	: Mr.J.S.Murali
For Respondent No.3	: Service awaited
For Respondent No.4	: Mr.V.Sakthivel

JUDGMENT

Assailing over the judgment and decree passed by the Motor Accident Claims Tribunal, II-Additional District Judge, Tirunelveli, in M.C.O.P.No.1225 of 2013 dated 15.10.2014, the present civil miscellaneous appeal has been filed.

2. Heard both sides and perused the records carefully.

3. It is a case of fatal and the appellants/claimants, being dissatisfied with the compensation of Rs.7,03,000/- awarded by the tribunal, is before this Court, seeking enhancement. Though several grounds have been raised, the appellants/claimants would strongly



emphasize on a sole ground that though the deceased was aged about 21 years at the time of accident, he was working as driver, earning a sum of about Rs.10,000/- per month and he is the sole breadwinner of the family, the tribunal has awarded a sum of Rs.7,03,000/- as compensation, which is very meagre for the three dependents and therefore, they prayed for interference of this Court to enhance the award amount.

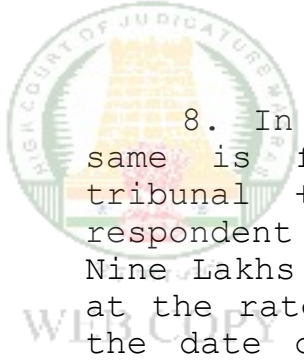
4. The mode of accident, which occurred in the year 2013, as well as the liability are not disputed. Perusal of record shows that the deceased was aged about 21 years at the time of accident and he was working as driver, earning a sum of Rs.10,000/- per month, but no proof was filed towards monthly income. Hence, the tribunal has taken the notional income of the deceased as Rs.6,000/- per month. The Hon'ble Supreme Court, in this context, in the decision reported in 2014 (1) TN MAC 459 (SC) in the case of Syed Sidiq etc., v. Divisional Manager, United India Insurance Company Ltd., has held that the reasonable monthly income of a labour in an unorganized sector doing his own business would be Rs.6,500/-. However, in the present case on hand, in the absence of proof for monthly income, the tribunal has rightly fixed a sum of Rs.6,000/- as monthly income of the deceased, which would be reasonable.

5. It is the further submission of the learned counsel for the appellant that the tribunal has not awarded any sum towards future prospects and as per Pranay Sethi case, the claimants are entitled to get 40% as the age of the deceased is 21 years, and accordingly, it is fixed at 40%. Insofar as the deduction towards personal expenses is concerned, since the deceased was a bachelor, the tribunal has rightly adopted 50% deduction and therefore, the same does not warrant any interference.

6. Therefore, the loss of dependency arrived at by the tribunal stands modified and the same reads as under:

- ((Income of the deceased + future prospects) - personal expenses) is ((Rs.6,000/- + Rs.2,400/- (40%)) - Rs.4,200/- (50%)) amounts to Rs.4,200/-.
- By applying the multiplier method, it would be (Rs.4,200/- * 12 * 18) amounting to Rs.9,07,200/-
- Therefore, the loss towards dependency is enhanced and the same is fixed at Rs.9,07,200/-, instead of Rs.6,48,000/-.

7. The Hon'ble Supreme Court, in the case of National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017, has categorically held that the compensation towards conventional heads (Loss of Estate, Loss of Consortium and Funeral Expenses) should be Rs.70,000/-, but since the deceased was a bachelor, Rs.40,000/- to be deducted towards consortium and hence, Rs.30,000/- is to be awarded towards conventional heads and the same is fixed accordingly. Further, no interference is necessary in other



8. In result, the award of the tribunal is enhanced and the same is fixed at Rs.9,67,200/- (Rs.7,03,000/- awarded by the tribunal + Rs.2,64,200/- enhanced by this Court). The second respondent is directed to deposit the sum of Rs.9,67,200/- [Rupees Nine Lakhs Sixty Seven Thousand and Two Hundred only] with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, 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, the appellants/claimants are permitted to withdraw the same with accrued interests and costs, as apportioned by the tribunal, without filing any formal application before the Tribunal. The appellants/claimants are directed to pay the necessary additional Court fee, if any, within a period of two weeks from the date of receipt of a copy of this judgment.

9. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No Costs. However, since the respondents 3 and 4 are common parties, this appeal is dismissed as against the respondents 3 and 4.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The II-Additional District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

COPY TO:

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

+1cc to M/S.D.Selvakumaran, Advocate SR.No. 74532

+1cc to M/S.J.S.Murali, Advocate SR.No. 74514

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pjl

JM/RP/SAR 2/06.09.2018/2P/6C