



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CMA(MD).No.775 of 2018 and
CMP(MD).No.8718 of 2018

WEB COPY

The Manager,
HDFC ERGO General Insurance Company Limited,
Ramon House, HT Parekh Marge,
169, Back Bay Reclamation,
Mumbai.

: Appellant/ Respondent No.2

Vs.

1.Antonyraj
2.Saroja Mary
3.Murugesan

: 1 & 2 Respondents/Petitioners
: 3rd Respondent/1st Respondent

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the fair and decretal order dated 09.02.2018 made in MCOP.No.39 of 2014 on the file of Motor Accidents Claims Tribunal / Additional District Judge, Virudhunagar.

For Appellant : Ms. K.R. Shivasankari
For R1 : Mr.S.M.Mohan Gandhi - Caveator

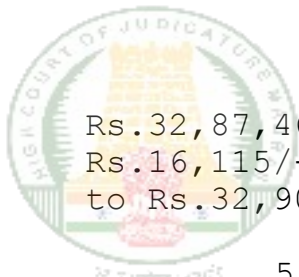
JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Award dated 09.02.2018, made in MCOP.No.39 of 2014 on the file of Motor Accidents Claims Tribunal / Additional District Judge, Virudhunagar.

2. By the consent of both sides, this Civil Miscellaneous Appeal is taken up for final disposal at the admission stage itself.

3. The appellant / Insurance Company is the Second respondent in MCOP.No.39 of 2014, on the file of Motor Accidents Claims Tribunal / Additional District Judge, Virudhunagar. The respondents 1 and 2, who are the dependants of the deceased viz., Vasugirani, filed the said claim petition, claiming a sum of Rs.40,00,000/- as compensation.

4. Challenging the award granted to the respondents 1 and 2, the appellant / Insurance Company has come out with the present appeal. In the appeal, the appellant is disputing the calculation while arriving at loss of dependency. According to the learned counsel appearing for the appellant, the income of the deceased was fixed as Rs.16,115/- per month and 50% was added towards future prospects. The deceased being spinster, the Tribunal deducted 50% of income towards personal expenses and arrived at a sum of



Rs.32,87,460/- (Rs.16,115/- + Rs.8,058/- (50%) - Rs.8,058/- - 1/2 = Rs.16,115/- x 12 months = Rs.1,93,380/- x 17) which is rounded off to Rs.32,90,000/-

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. From the award of the Tribunal, it is seen that the Tribunal has taken a monthly income of the deceased following the Judgment of Hon'ble Apex Court added 50% towards future prospects and held that the deceased being spinster 50% to be deducted from the income. However, there is a calculation error in computing the loss of dependency. While calculating instead of deducting Rs.12,087/-, Tribunal deducted Rs.8,058/- and arrived at Rs.32,90,000/- instead of Rs.24,65,646/-.

7. The contention of the appellant in this regard has considerable force and it is acceptable. For the above reason, the award of the Tribunal with regard to loss of dependency is modified as follows:

Rs.12,087/- x 12 x 17 = Rs.24,65,748/-

Accordingly, a sum of Rs.32,87,460/- awarded by the Tribunal towards loss of dependency is modified as Rs.24,65,748/-. In all other aspects, the amount awarded by the Tribunal is hereby confirmed. Accordingly, the amount awarded by the Tribunal is modified to a sum of Rs.24,95,748/- r/o to Rs.24,95,750/- The interest awarded by the Tribunal at the rate of 7.5% per annum remains un-altered.

8. The appellant / Insurance Company is directed to deposit the said modified award amount of Rs.24,95,750/- with proportionate interest and costs, after deducting the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this judgment and on such deposit being made, the claimants / respondents 1 and 2 herein are permitted to withdraw their share as per the apportionment fixed by the Tribunal, on filing proper application before the Tribunal.

9. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Additional District Judge,
The Motor Accidents Claims Tribunal,
Virudhunagar.



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

+1CC to Mr.S.M.Mohan Gandhi, Advocate, SR.No.84648

+1CC to Mr.S.Srinivasa Raghavan, Advocate, SR.No.84954

CMA(MD) .No.775 of 2018 and
CMP(MD) .No.8718 of 2018
17.09.2018

TRP

ES/RP/SAR 1/28.11.2018/3P/6C