



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.1009 of 2013

1.Susilan
2.Uma

.. Appellants /
Petitioners / Claimants

Vs.

1. Sekar

2. The Divisional Manager,
The Oriental Insurance Company Ltd.,
First Floor, Gopal Row Library Buildings,
Town Hall Road,
Kumbakonam - 612 001.

3. The Managing Director,
State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai.

... Respondents/Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the award, dated 02.04.2012, made in M.C.O.P.No.936 of 2011 by the Motor Accident Claims Tribunal, Fast Track Court No.II, Tirunelveli.

For appellant	:	Mr.T.Selvakumaran
For 1 st respondent	:	No appearance
For 2 nd respondent	:	Mr.K.Bhaskaran
For 3 rd respondent	:	Mr.P.Prabhakaran

JUDGMENT

Heard the learned counsel appearing for both sides and perused the records carefully.

2. It is a case of fatal. The manner of the accident is not in dispute. The appellants / claimants have filed this appeal seeking to enhance the compensation awarded by the Tribunal.



3. The learned counsel appearing for the appellants / claimants submitted that the deceased was the only daughter of the appellants and at the time of the accident, she was doing M.Tec. course. The Tribunal has taken only a sum of Rs.5,000/- p.m. as the notional income of the deceased and considering the educational qualification of the deceased, the Tribunal ought to have fixed a sum of Rs.15,000/- p.m. as the notional income of the deceased and then, ought to have added 40% towards future prospects in the said income of the deceased. In support of his contention, the learned counsel appearing for the appellants / claimants relied upon a decision of this Court in **2013 (2) TN MAC 846 (United India Insurance Company Ltd., Vs. Velumyil)**. He would further submit that the Tribunal, without adopting the multiplier No.17 by taking into account the age of the deceased, has adopted only Multiplier No.15 by taking into account the age of the mother of the deceased. He would further submit that the Tribunal has awarded only lesser amount on the other heads. Thus, he prayed to enhance the award amount.

4. In the decision of United India Insurance Company Limited Vs. Velumyil, cited supra, a learned Single Judge of this Court, even for the death of a 19 year old 1st year Engineering student, has fixed a sum of Rs.10,000/- p.m. as notional income and then, added 50% towards future prospects and thereby, arrived at Rs.15,000/- p.m. as total monthly income. Here, in this case, the deceased was doing M.Tec. course and hence, the notional income can be fixed on the higher side.

5. When it was pointed out that if the multiplier method is adopted by taking into account minimum of Rs.10,000/- p.m. as notional income of the deceased and by adding 40% future prospects in the monthly income, and the amount awarded in respect of other heads are enhanced reasonably, the amount would be higher than the value of the appeal, the learned counsel appearing for the second respondent strenuously submitted that as the appellants have restricted their claim to a sum of Rs.5,00,000/-, the said sum i.e., Rs.5,00,000/- may be awarded in lump sum, along with interest, in addition to the amount awarded by the Tribunal. The learned counsel appearing for the appellants also fairly conceded to the same.

6. In view of the above, the award is enhanced from 7,26,000/- to Rs.12,26,000/-. So far as the interest is concerned, the rate of interest i.e., 8 % p.a. fixed by the Tribunal is confirmed. The first and second respondents are directed to deposit the entire award amount jointly or severally, less the amount already deposited, with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment and on such deposit being made, the appellants / claimants are permitted to withdraw the deposited amount with accrued interest and costs without filing any formal petition before the Tribunal. The appellants are directed to pay the Court fee, if any to be paid, for the enhanced amount, within a period of four weeks from the date of



receipt of a copy of this judgment.

7. This Civil Miscellaneous Appeal is accordingly allowed. No costs.

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Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Motor Accident Claims Tribunal,
(Fast Track Court No.2),
Tirunelveli.

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

+ 1 CC TO Mr.T.SELVAKUMARAN, ADVOCATE IN SR No. 69642

+ 1 CC TO Mr.K.BHASKARAN, ADVOCATE IN SR No. 69342

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 69508

GCG

TE/SKN/SAR-1 : 24/07/2018 : 3P/7C

C.M.A(MD) .No.1009 of 2013
22.06.2018