



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.1432 of 2013

1.R.Rajammal
2.R.Chidambaram
3.R.Ayyakannu
4.R.Natesan

.. Appellants/ Petitioners

Vs.

1. K.Senthi

2. ICICI Lombard General Insurance Company Ltd.,
Zenith House,
Keshavrao Khade Marg,
Mahalaxmi,
Mumbai - 400 034.

.. Respondents / Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 15.10.2012 made in MCOP No.151 of 2010 on the file of the Motor Accidents Claims Tribunal, the District Judge, Karur.

For Appellants : Mr.T.Selvakumaran

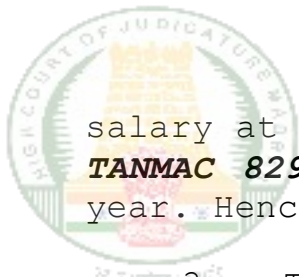
For Respondent No.1 : No appearance

For Respondent No.2 : Mr.K.K.Ramakrishnan

JUDGMENT

Challenging the judgment and decree passed by the learned District Judge, Motor Accident Claims Tribunal, Karur, in M.C.O.P.No.151 of 2010, dated 15.10.2012, the instant appeal has been preferred by the appellants/claimants.

2. It is a case of fatal. The Tribunal awarded a compensation of Rs.3,89,270/-, against which, the appellants/claimants have preferred this appeal for enhancement. According to the appellants, the deceased was doing agricultural work, earning about a sum of Rs.2,00,000/- per year. In the absence of evidence for income, the learned Judge ought to have taken the monthly



salary at Rs.6000/-, by complying the judgment reported in **2012 (1) TANMAC 829**, but the tribunal has taken a sum of Rs.15,000/- per year. Hence, the appellants preferred this appeal.

3. The learned counsel for the second respondent/insurance company would submit that the deceased was aged about 70 years at the time of accident and no evidence was adduced to prove his income. Hence, in the absence of proof of income, considering the age of the deceased, the tribunal has rightly assessed the income of the deceased to a sum of Rs.15,000/- per year.

4. Perusal of record shows that the tribunal has assessed the age of the deceased at 70 years. It is also seen that the deceased was engaged in agricultural activities. The Hon'ble Supreme Court, 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/-. In the present case on hand, the deceased was aged about 70 years at the time of accident and therefore, this Court is of the view that it would be appropriate to take the notional income of the deceased as Rs.4,500/-, instead of Rs.1,250/- per month. Considering the number of dependents, this Court feels that $1/4^{\text{th}}$ has to be deducted towards personal expenses instead of $1/3^{\text{rd}}$. Considering the age of the deceased, the apt multiplier should be 5, as per the decision made in **Sarala Verma's** case, as rightly held by the tribunal.

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

- By applying the multiplier method, it would be $[(Rs.4,500/- * 12 * 5) - \text{towards personal expenses}]$ amounting to Rs.2,02,500/-.
- Therefore, the loss of income is enhanced and the same is fixed at Rs.2,02,500/-, instead of Rs.50,000/-.

6. Insofar as the other heads are concerned, it is seen that the tribunal has awarded a reasonable sum and therefore the same stands confirmed.

7. Accordingly, the appeal is partly allowed and the total award amount is fixed at Rs.5,41,770/- (Rupees Five Lakhs Forty One Thousand Seven Hundred Seventy only). No costs. The second respondent/Insurance Company is directed to deposit the entire award amount with interest @ 7.5% p.a., and costs, excluding the sum 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



without filing any formal application before the Tribunal.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS-II)

To

The District Judge,
Motor Accident Claims Tribunal,
Karur

Copy to:

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

+ 1 cc TO Mr. T. Selvakumaran , Advocate in SR No. 70182
+ 1 cc TO Mr. K. K. Ramakrishnan , Advocate in SR No. 69997

PJL

AE/SKN RSK/SAR2/26.07.2018/3P/6C

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