



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 16.07.2018

CORAM :

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**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

CMA(MD)No.1636 of 2013  
and  
MP(MD)No.1 of 2013

The Oriental Insurance Company Limited,  
Rep.by Branch Manager,  
Nagercoil Vadasery Village,  
Nagercoil, Kanyakumari District.

... Appellant/3<sup>rd</sup> Respondent

vs.

1)Victoria

2)Minor Nichol Deferin

3)Minor Terison

4)Minor Ricason

(Monors 2 to 4 respondents rep. by their  
natural guardian/mother 1<sup>st</sup> respondent Victoria)

5)Suseela

...Respondents 1 to 5/Claimants

6)Madusoothana Nair

7)G.Babu

8)Murugan

9)Suresh

10)The Branch Manager,  
Reliance General Insurance Co.Ltd.,  
Anil Dhirubai  
Ambani Group Company Ltd.,  
Tirunelveli.

... Respondents 6 to 10 /Respondents 1,2,4,5&6

Appeal filed under Section 173 of the Motor Vehicles Act, 1988,  
against the award made in MCOP.No.295/2009 dated 29.04.2013 on the  
file of the Motor Accidents Claims Tribunal cum 1<sup>st</sup> Additional Sub  
Judge, Nagercoil.

For Appellant

: Mr.K.Bhaskaran

For R1 to R4

: Mr.P.T.Ramesh Raja

For R7 & R10

: No appearance

R5

: Died

**JUDGMENT**

This appeal has been filed against the award made in MCOP.No.295/2009 dated 29.04.2013 on the file of the Motor Accidents Claims Tribunal cum 1<sup>st</sup> Additional Sub Judge, Nagercoil.

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2. In an accident which occurred on 26.10.2007, one Hercules Fernando died. Wife, children and mother of the deceased laid a claim in MCOP.No.295/2009 on the file of the Motor Accidents Claims Tribunal cum 1<sup>st</sup> Additional Sub Judge, Nagercoil, claiming compensation of Rs.10,00,000/-. Resisting the claim petition, the appellant filed counter denying the manner of accident and the quantum of compensation claimed under various heads. Considering the oral and documentary evidence adduced on either side, the Tribunal awarded compensation of Rs.8,17,000/- with 7.5% per annum from the date of claim. Aggrieved by the said award, the appellant has filed this appeal. Though the appellant filed this appeal challenging negligence and quantum, learned counsel for the appellant restricted his submission only to quantum of compensation.

3. Perusal of record shows that the respondents/claimants claimed that at the time of accident, the deceased was aged 48 years and earned Rs.9,000/- per month by working as a commission agent and doing business in fish. The Tribunal fixing the monthly income at Rs.6,000/-, deducting 1/3<sup>rd</sup> towards the personal expenses of the deceased and applying '13' multiplier according to the age of the deceased, awarded compensation of Rs.6,24,000/- (Rs.6000x12-1/3x13). Apart from the above, the Tribunal awarded Rs.2,000/- towards transportation, Rs.1,000/- towards damage to clothes, Rs.10,000/- towards funeral expenses, Rs.1,00,000/- towards loss of consortium and Rs.80,000/- towards loss of love and affection.

4. As per the judgment of the Hon'ble Supreme Court in National Insurance Company Limited vs. Pranay Sethi and others (Special Leave Petition (Civil) No.25590 of 2014 dated 31.10.2017), no future prospects has been awarded. The 1<sup>st</sup> respondent/wife of the deceased lost consortium of her husband at the young age of 37 years. Respondents 2 to 4 who were minor children aged 15, 13 and 10 respectively, at the time of accident, lost the love and affection, guidance and advice of their father at the young age. Therefore, in my considered opinion, since no future prospects has been awarded, it is a simple matter the award granted by the Tribunal is reasonable and it need not be interfered with.

5. The appellant is directed to deposit entire award amount with interest and costs, less the amount already deposited, if any, to the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the major claimants are permitted to withdraw their respective shares with interest without filing any formal petition before the Tribunal. The minors' share shall be deposited in a Nationalised Bank till the minors attain majority. After attaining majority, it



is for the minor claimants to withdraw their respective shares by making necessary application before the Tribunal discharging guardianship.

Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar (CS-II)

To

The 1<sup>st</sup> Additional Sub Judge,  
Motor Accident Claims Tribunal,  
Nagercoil.

+1cc to Mr.K.Bhaskaran, Advocate, SR.No.73231.

+1cc to Mr.P.T.Ramesh Raja, Advocate, SR.No.72979.

CMA (MD) No.1636 of 2013

16.07.2018

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