



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.570 of 2013

1.G.Pushpbavathi
2.G.Subha
3.S.Seerammal

... Appellants

Vs.

1. P.Viswanathan

2. The Manager,
National Insurance Co. Ltd.,
No.63, Rasi Plaza,
West Pradhakshnam Road,
Karur.
[R.1 set *ex-parte* vide order
dated 23.01.2018]

... Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in MCOP No.485 of 2010 on the file of the Motor Accident Claims Tribunal (District Judge), Karur, dated 30.10.2012.

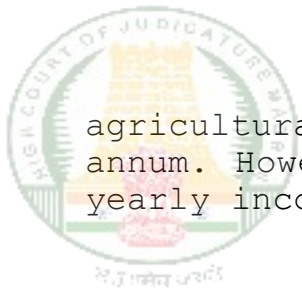
For Appellants : Mr.S.Gokulraj
For R.2 : Ms.P.Malini

JUDGMENT

Assailing over the judgment and decree passed by the Motor Accident Claims Tribunal, (District Judge), Karur, in M.C.O.P.No. 485 of 2010 dated 30.10.2012, the present civil miscellaneous appeal has been filed.

2. Heard the learned Counsel appearing for the respective parties and perused the records carefully.

3. It is a case of fatal and the appellants/claimants, being dissatisfied with the compensation of Rs.1,25,000/- 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 62 years at the time of accident, he was involved in



agricultural activities earning a sum of about Rs.2,00,000/- per annum. However, the tribunal has fixed a sum of Rs.15,000/- as his yearly income and therefore, they pray for interference.

4. The mode of accident, which occurred in the year 2010, as well as the liability are not disputed. Perusal of record shows that the deceased was aged about 62 years at the time of accident and he was doing milk vending business as well as agricultural activities. It is seen that the tribunal has taken the notional income of the deceased as Rs.15,000/- per annum, which, in my considered opinion, is very very meagre and therefore, the same deserves interference at the hands of this Court. 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, considering the age of the deceased as well as the nature of job of the deceased, this Court fixes a sum of Rs.4,500/- as monthly income of the deceased, which would be reasonable.

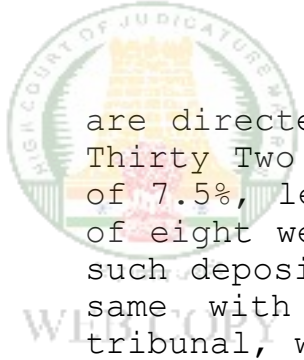
5. On a perusal of records, it is seen that the tribunal has not awarded any sum towards future prospectus and on going by the facts of the case as well as after perusing the records, this Court feels that compensation towards future prospectus has to be ordered and accordingly, it is fixed at 10%. Insofar as the deduction towards personal expenses is concerned, the tribunal has rightly adopted 1/3 deduction, by considering the number of dependents 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.4,500/- + Rs.450/- (10%)) - Rs.1,650/- (1/3)) amounts to Rs.3,300/-.
- By applying the multiplier method, it would be (Rs.3,300/- * 12 * 7) amounting to Rs.2,77,200/-.
- Therefore, the loss towards dependency is enhanced and the same is fixed at Rs.2,77,200/-, instead of Rs.70,000/-.

7. Insofar as the other heads are concerned, it is seen that the tribunal, after considering all the aspects, has rightly awarded the compensation and therefore, the same does not deserve any interference.

8. In result, the award of the tribunal is enhanced and the same is fixed at Rs.3,32,200/- (Rs.1,25,000/- awarded by the tribunal + Rs.2,07,200/- enhanced by this Court). The respondents



are directed to deposit the sum of Rs.3,32,200/- [Rupees Three Lakh Thirty Two Thousand and Two Hundred only] with interest at the rate of 7.5%, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. 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. No costs. The appellants/claimants are directed to pay the necessary additional Court fee within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The District Judge,
Motor Accident Claims Tribunal,
Karur.

Copy To:-

The Section Officer,
A.E.Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.S.GOKULRAJ, ADVOCATE IN SR No. 60677
+ 1 CC TO Ms.MALINI, ADVOCATE IN SR No. 60693

GK
TE/JC/SAR-2 : 27/04/2018 : 3P/5C

C.M.A (MD) .No.570 of 2013
11.04.2018