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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1779 of 2018

1.Rajalakshmi,
W/o.Late.Shanmugam

2.Umamaheshwari,
W/o.Ranjithkumar,
Old Door No.1/20, New D.No.1/123,
Poolanginaru Post, Udumalpet Taluk,
Tiruppur District.

3.Vasanth Kokila, W/o.Shankar,
D/o.Shanmugam,
Residing at No.105,
Manickampalayam South Street,
Nalithottam, Erode.

... Appellants

Vs

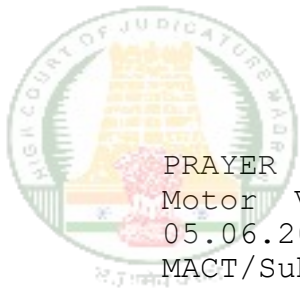
1.Marudhamuthu @ Sivaraj,
Son of Gopalakrishnan,
No.1/349, Udukampalayam,
Udumalpet Taluk.

2.Ravikumar,
Son of Murugavel,
Residing at: MPC Street,
Samarayapatti Taluk,
Madathukulam Taluk,
Tiruppur District.

3.The Oriental Insurance Company Limited,
3rd Avenue, SB Complex, First Floor,
Next to D.K.Kalyana Mandapam,
Opposite to Rountana,
Anna Nagar, Chennai 40.

... Respondents

(RR1,2 remained exparte
before the Tribunal below)



PRAYER : Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act 1988 against the Award and Decree dated 05.06.2018 made in M.C.O.P.No.28 of 2017 on the file of MACT/Sub Court at Udumalpet.

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For Appellants : Ma.P.Thangavel

For Respondents : Mr.R.Mohan Babu (for R3)
for Mr.N.Vijayaraghavan

JUDGMENT

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the claimants against the award of Rs.40,62,818/-, awarded as compensation for the death of one Mr.Shanmugam, aged about 53 years, working as EB line Inspector in Tamil Nadu Electricity Board, earning about Rs.50,000/- per month, who died in the accident occurred on 04.10.2016, when he was walking on the left side of the road and was hit from behind by the vehicle belonging to the 2nd respondent and insured with the 3rd respondent.

2.Heard Mr.Ma.P.Thangavel, learned counsel appearing for the appellant and Mr.R.Mohan Babu, learned counsel for Mr.N.Vijayaraghavan, learned counsel for the 3rd respondent.

3.The only question to be decided is with regard to quantum of compensation and there is no appeal with regard to the liability of the Insurance company.

4.Though the learned counsel appearing for the appellant would submit that 100% future prospects should have been added along with income, a perusal of the records shows that the age of the deceased was 53 years at the time of accident and as per the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), the claimants are entitled to addition of 15% towards future prospects and the same was rightly added by the Tribunal, relying upon the judgment of the Honourable Apex Court rendered in Rajesh and others V. Rajbir Singh and others reported in 2013 (2) TN MAC 55 (SC). None of the Supreme Court Judgment or High Court Judgment stated that 100% income should be added towards future prospects. Since the age of the deceased is 53 years, the Tribunal was right in adding 15% towards future prospects along with proved income of Rs.43,290/- and determined the monthly income at Rs.49,783/-. Deduction of 1/3rd towards personal expenses was also rightly made by the Tribunal as the size of the family is three. In all other aspects, the amounts awarded



are in consonance with settled position of law and therefore, the appeal fails.

5. The 3rd respondent is directed to deposit the entire award amount along with interest and costs, after deducting the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal is directed to transfer the respective shares of appellants along with interest to their respective bank accounts, through RTGS, within a period of one week from the date of receipt of a copy of this order.

6. Accordingly, this appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sai

To

The Subordinate Judge,
The Motor Accident Claims Tribunal,
Udumalpet.

Copy To
The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Ma.P.Thangavel, Advocate, S.R.No.50706
+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.50765

C.M.A.No.1779 of 2018

GMR(CO)
CS/20/09/2019