



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CMA(MD).No.117 of 2009 and
MP(MD).No.1 of 2009

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The New India Assurance Company Limited,
rep. by its Divisional Manger,
Annanagar, Chennai.

... Appellant/2nd Respondent
Vs.

1. K. Srinivasan (died) .. 1st respondent / claimant
2.M/s. S.R.M. Easwari Travels & Tours (P) Ltd.,
No.3, Veerasamy Street,
West Mambalam
Chennai. .. 2nd respondent / 1st respondent
3. S. Ayyammal
4. S. Padma Piraba
5. S. Sabarinanthan ... Respondents 3 to 5 / LR's of
first respondent

(2nd respondent herein was the 1st respondent before the Tribunal and he remained ex parte before the Tribunal. Hence, notice to the 2nd respondent dispensed with)

(Respondents 3 to 5 impleaded as per order dated 01.10.2019 passed in CMP(MD).No. 8952 of 2019 in CMA(MD).No. 117/2009)

PRAYER: This Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act 1988 against the Decree and Judgment dated 26.09.2008 made in MCOP.No. 23 of 2007 on the file of the Motor Accidents Claims Tribunal / Sub Court, Kovilpatti.

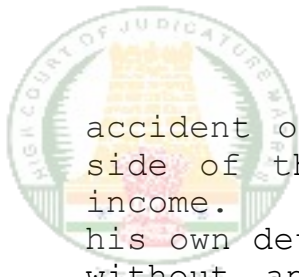
For appellant : Mr. B. Vijay Karthikeyan
For R3 to R5 : Mr. K.K. Samy

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree, dated 26.09.2008 made in MCOP.No. 23 of 2007 on the file of the Motor Accidents Claims Tribunal / Sub Court, Kovilpatti.

2. It is the case of injury. The Tribunal has awarded a sum of Rs.2,17,000/- as compensation to the injured claimant. During the pendency of this appeal, the injured claimant died. The respondents 3 to 5 were impleaded as LR's of the deceased first respondent.

3. The learned counsel appearing for the appellant / Insurance Company contended that the Tribunal has wrongly fixed the notional income of the deceased as Rs.3,000/- per month for the



accident occurred on 06.05.2006. He further contended that on the side of the injured, no document has been produced to prove the income. In the absence of any material evidence, the Tribunal on his own determined the notional income of the deceased at Rs.3,000/- without an application of mind. He further contended that the Doctor, who treated the injured has assessed the disability of the injured as 34% permanent partial disability and issued disability certificate to that effect. The learned counsel appearing for the appellant fairly submitted that they are not disputing the disability, but they are disputing only the lumpsum compensation awarded by the Tribunal towards the disability i.e., a sum of Rs.2,00,000/-.

4. The learned counsel appearing for the respondents / claimants would contend that the Tribunal has rightly applied the multiplier method and awarded compensation. He further contended that in the present case the Tribunal has taken a sum of Rs.3,000/- as notional income added 25% of the income as future prospectus, applied correct multiplier No. 13 and awarded a sum of Rs.2,00,000/- for disability, in the manner stated below:

$$\begin{aligned} & \text{Rs. } 3,000/- + 25\% = \text{Rs. } 3,750/- \\ & = \text{Rs. } 3,750/- \times 12 \times 13 = \text{Rs. } 1,98,900/- \\ & \text{r/o to Rs. } 2,00,000/- \end{aligned}$$

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. A perusal of the record shows that the Court below fixed a sum of Rs.3,000/- as notional income for the accident of the year 2006. This Court is of the view that Rs.3,000/- taken by the Tribunal as notional income of the injured is just and reasonable and therefore, this amount is just and fair. In such circumstances, this Court is not inclined to interfere with the notional income fixed by the Tribunal.

7. It is seen that before the accident, the claimant was working in a private concerned. In the accident, the claimant has sustained multiple injuries and fractures, due to which he could not continue his work as he was done earlier and therefore, this Court is of the view that it would be proper to adopt multiplier method. Though the Tribunal has notionally awarded Rs.2,00,000/- towards disability, as rightly stated by the learned counsel for the claimants, if the notional income is added with 25% of future prospectus and multiplied with correct multiplier No.13, the amount towards disability would come to Rs.1,98,900/- and if the same is rounded off, the award towards disability comes to Rs.2,00,000/- and therefore, the amount awarded by the Tribunal towards disability need not be interfered with. The compensation awarded in respect of other heads are just and fair and hence, there is no need to interfere with the award passed by the Tribunal.



8. In fine, this Civil Miscellaneous Appeal is dismissed confirming the award, dated 26.09.2008 made in MCOP.No. 23 of 2007 on the file of the Motor Accidents Claims Tribunal / Sub Court, Kovilpatti.

9. The appellant / Insurance Company is directed to deposit the entire award amount of Rs.2,17,000/- together with interest at 7.5% per annum from the date of petition till the date of deposit and costs to the credit of MCOP.No. 23 of 2007, on the file of the Motor Accidents Claims Tribunal / Sub Court, Kovilpatti, after deducting the amount already deposited if any, within a period of eight weeks from the date of receipt of copy this order. On such deposit, the 3rd respondent herein viz., S. Ayyammal is permitted to withdraw a sum of Rs.1,17,000/- with interest at 7.5% per annum and the respondents 4 and 5 viz., S. Padma Piraba and S. Sabarinanthan are each entitled to withdraw a sum of Rs.50,000/- with interest at 7.5% per annum on filing necessary application before the Tribunal.

10. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

trp
To

The Subordinate Judge,
Motor Accidents Claims Tribunal / Sub Court,
Kovilpatti.

Copy to

The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai (2 copies)

+1 CC to Mr.K.K. SAMY, Advocate (SR-90712[F] dated 01/10/2019)

+1 CC to Mr.B.VIJAY KARTHIKEYAN, Advocate (SR-91044[F] dated 03/10/2019)

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VB(20.12.2019) 3P 6C