



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2019

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

C.M.A(MD)No.703 of 2013

and

M.P(MD)No.1 of 2013

National Insurance Co. Ltd.,
No.33, Promenade Road,
Cantonment, Trichy.

.. Appellant/ 2nd
Respondent

Vs.

1.A.Gomathi

2.M.Shanmugapillai

3.S.Rajamani

.. Respondents
1 to 3 / Claimants

4.K.P.Natarajan

.. 4th Respondent /
1st Respondent

(R4 remained *ex parte* before the Tribunal)

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 18.06.2007, passed in M.C.O.P.No.266 of 2006 by the Motor Accident Claims Tribunal / Third Additional Sub Court, Tiruchirappalli.

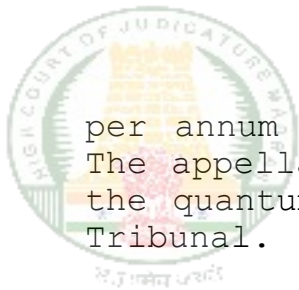
For Appellant : Mr.N.Murugesan

For Respondents 1 to 4 : No appearance

JUDGMENT

It is a case of fatal. The manner of the accident is not in dispute. The Tribunal has awarded a sum of Rs.5,12,000/- towards loss of income, Rs.5,000/- towards loss of consortium, Rs.5,000/- towards loss of love and affection, Rs.5,000/- towards funeral expenses, Rs.5,000/- towards transport expenses and Rs.17,625/- towards medical expenses, totally Rs.5,49,625/- as compensation. The Tribunal has directed the appellant / Insurance Company and the 4th respondent to pay the entire compensation amount with 7.5% interest

<https://hcservices.mca.gov.in/hcservices/>



per annum from the date of petition till the date of realization. The appellant / Insurance Company has filed this appeal questioning the quantum in respect of the notional monthly income fixed by the Tribunal.

2.The learned counsel appearing for the appellant / Insurance Company would submit that though no document has been filed on the side of the claimants in respect of the income of the deceased, the Tribunal has fixed the notional monthly income of the deceased as Rs.4,000/-, which is on the higher side. Thus, he prayed to reduce the award passed by the Tribunal.

3.Despite notice being served on the respondents 1 to 3 / claimants and their names are being printed in the cause list, there is no representation on behalf of them either in person or through counsel.

4.Heard the learned counsel appearing for the appellant / Insurance Company and perused the records carefully.

5.The date of accident is on 16.05.2004. It is not in dispute that the deceased was aged about 38 years at the time of accident. Before the accident, the deceased was stated to be working as an auto driver and earning a sum of Rs.4,000/- per month. But, they have not produced any document in order to substantiate the same. In the decision of **Syed Sadiq and others Vs. Divisional Manager, United India Insurance Company Limited**, reported in **2014 ACJ 627**, the Hon'ble Supreme Court, keeping in mind the escalation of prices, has fixed a sum of Rs.6,500/- as notional monthly income of a vegetable vendor, even in the absence of documentary evidence to prove the income. But, the Tribunal has fixed Rs.4,000/- only as notional monthly income of the deceased and taken multiplier 16 and deducted 1/3 towards personal expenses and accordingly, awarded a sum of Rs.5,12,000/- towards loss of income. The award passed towards loss of consortium, love and affection, funeral expenses and transport expenses, are not on the higher side. The Tribunal has awarded Rs.17,625/- towards medical expenses, based on medical bills. Therefore, this Court is not inclined to interfere with the award passed by the Tribunal.

6.In view of the above, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. The appellant / Insurance Company and the 4th respondent are directed to deposit the entire award amount, less the amount already deposited, with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw their respective shares with accrued interest and costs, as apportioned by the Tribunal, less the amount already withdrawn, by filing an



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application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

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To

1.The Motor Accident Claims Tribunal,
Third Additional Sub Court,
Tiruchirappalli.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1 CC to M/s.N.MURUGESAN, Advocate (SR-79859[F] dated 06/08/2019)

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KK/SAR/27.09.2019/3P-5C/