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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A. (MD) .No.910 of 2013

and

M.P. (MD) .No.2 of 2013

The National Insurance Company Limited,
represented by its Branch Manager,
Thiru-vi-ka Industrial Estate,
Guindy (Post),
Chennai. ... Appellant/2nd Respondent

Vs.

1.Usha
2.Minor Athavan
3.Minor Moshaiya ... Respondents No.1 to 3/Petitioners
4.C.Balasivam ... Respondent No.4/Respondent No.1

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the fair and decreetal order dated 17.04.2006 made in M.C.O.P.No.2217 of 2003 on the file of the Motor Accident Claims Tribunal (III Additional Sub Judge), Trichy.

For Appellant : Mrs.Shiva Shankari
for Mr.S.Srinivasa Raghavan

For R1 to R3 : Mr.B.Prasanna Vinoth

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal (III Additional Sub Judge), Trichy in M.C.O.P.No.2217 of 2003, dated 17.04.2006.

2. The learned counsel appearing for the appellant/Insurance Company submitted that while fixing the loss of income, the Tribunal has applied the multiplier '17'. But however, the age of the deceased was 34 years and the Hon'ble Apex Court in the case of **Smt.Sarla Verma & Ors v. Delhi Transport Corporation & Another** reported in **2009(2) TNMAC 1(SC)**, held that the multiplier applicable for the age group 34 would be '16'. Hence, the loss of income of the deceased would be Rs.7,68,000/- (Rs.48,000/- x 16).



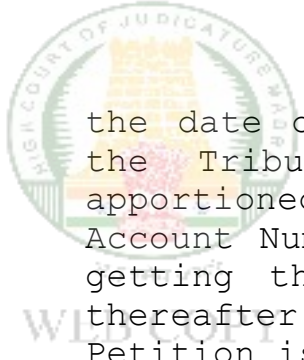
3. The learned counsel appearing for the respondents 1 to 3/claimants also fairly submitted that as held by the Hon'ble Apex Court, the multiplier applicable to the age group 34 is '16'.

4. In view of the submissions made by the learned counsel for the appellant/Insurance Company as well as the learned counsel appearing for the respondents 1 to 3/claimants and as held by the Hon'ble Apex Court in the case of **Smt.Sarla Verma & Ors v. Delhi Transport Corporation & Another** reported in **2009(2) TNMAC 1(SC)**, for the age group 34, the correct multiplier is '16', this Court is of the view that the Tribunal has wrongly awarded compensation by applying the multiplier '17. Hence, by applying multiplier '16', this Court awards a sum of Rs.7,68,000/- (Rs.48,000/- x 16) towards loss of income. Further, the Tribunal has awarded a sum of Rs.10,000/- towards love and affection, Rs.5,000/- for loss of consortium and Rs.5,000/- for funeral expenses. As held by the Hon'ble Apex Court in the case of **National Insurance Company Limited vs. Pranay Sethi and others** reported in **(2017) 16 SCC 680**, the Tribunal ought to have awarded a sum of Rs.40,000/- towards loss of consortium, a sum of Rs.15,000/- towards funeral expenses, Rs.15,000/- towards love and affection. Therefore, this Court is inclined to revise the same as laid down by the Hon'ble Apex Court in the case of **Pranay Sethi**. Accordingly, this Court revised the award amount from Rs.5,000/- to Rs.40,000/- for loss of consortium and the amount awarded by the Tribunal towards love and affection and funeral expenses also revised from Rs.10,000/- to Rs.15,000/- towards love and affection and from Rs.5,000/- to Rs.15,000/- towards funeral expenses.

5. At this juncture, the learned counsel appearing for the appellant/Insurance Company as well as the learned counsel appearing for the respondents 1 to 3/claimants submitted that the amount awarded by the Tribunal may be confirmed.

6. In view of the submissions made by the learned counsel appearing for the appellant/Insurance Company as well as the learned counsel appearing for the respondents 1 to 3/claimants, this Court is inclined to confirm the award passed by the Tribunal, without going into the merit of the appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed and the award passed by the Motor Accident Claims Tribunal (III Additional Sub Judge), Trichy in M.C.O.P.No.2217 of 2003, dated 17.04.2006 is confirmed.

7. In view of the dismissal of the appeal, this Court directs the appellant/ Insurance Company to deposit the entire award amount within a period of eight weeks from the date of receipt of a copy of this order along with interest at the rate of 7.5% from



the date of petition till the date of deposit. On such deposit, the Tribunal is directed to transfer the said amount as apportioned by the Tribunal, directly to the Personal Savings Account Number of the claimants by way of RTGS/NEFT system, after getting their Account Details, within a period of three weeks thereafter. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar (CS)

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To
The Motor Accident Claims Tribunal
(III Additional Sub Judge),
Trichy.

COPY TO
The Section Officer,
V.R. Section, Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 CC to M/s.B.PRASANNA VINOTH, Advocate (SR-97177[F] dated 11/11/2019)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-97227[F] dated 11/11/2019)

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GKG (CO)
TR(13.02.2020) 3P 6C