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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.1056 of 2018

and

CMP(MD)Nos.10986 of 2018 and 3902 of 2019

The Branch Manager,
National Insurance Company Ltd.,
First Floor,
T.S.No.4132,
Keelarajaveethi,
Pudukkottai District.

... Appellant/2nd Respondent

vs.

1)Muthulakshmi
2)Minor Suvedha
3)Minor Mukhilarasi
4)Minor Kaviyarasi
(Minor respondents 2 to 4 are represented by their next friend and guardian their mother, the 1st respondent)
5)Renganayaki
6)Karuppiah ...R1 to 6 Respondents/
1 to 6 Petitioners
7)V.A.Velayudham ... R1 to 7 Respondents/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.09.2017 made in MCOP.No.235 of 2016 on the file of the Additional District Judge, Special Court, Pudukkottai.

For Appellant : Mr.A.Ilango
For Respondents : Ms.A.Banumathy

JUDGMENT

Challenging the quantum of compensation, the appellant has filed this appeal.

2.The only contention made by the learned counsel for the appellant is that fixation of monthly income of the deceased who said to be a mason, at Rs.9,000/- for computing the loss of income, is without any proof. Except the above, the learned counsel did not dispute the award under other heads.

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3.Learned counsel for the respondents 1 to 6/claimants would



contend that the claimants claimed that the deceased was earning a sum of Rs.20,000/- per month by working as a mason, but the Tribunal has fixed only a meagre sum of Rs.9,000/- as monthly income and therefore, the same need not be interfered with.

4. Heard both sides and perused the records.

5. Though the appellant questioned the fixation of monthly income of the deceased at Rs.9,000/- as on the higher side and without any proof, this Court is not inclined to accept the said contention for the reason that as per the Standard Schedule of Rates fixed in the Public Works Department in the State of Tamilnadu for the year 2015-2016, the daily rate of wages for a Mason is Rs.451/- and it is Rs.13,500/- for a month. The accident is of the year 2015 and the avocation of the deceased as Mason is not disputed. If the above daily rate fixed for a Mason in the PWD is taken into consideration for calculating the loss of income, the compensation will be very high and therefore, I am not inclined to interfere with the award passed by the Tribunal.

6. The appellant is directed to deposit the entire award amount with interest and costs as awarded by the Tribunal to the credit of the claim petition within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1, 5 and 6 are permitted to withdraw their respective shares with interest without filing formal permission petition before the Tribunal. The Tribunal shall deposit the shares of the respondents 2 to 4/minor claimants in a Nationalised Bank in Fixed Deposit until they attain majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st respondent/mother once in three months directly from the bank.

Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

To

1) The Additional District Judge,
Special Court,
Motor Accidents Claims Tribunal,
Pudukkottai.

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



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+1cc to Mr.A.BANUMATHY, Advocate, SR.No. 69146
+1cc to Mr.A.ILANGO, Advocate, SR.No. 69475

CMA (MD) No.1056 of 2018

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