



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.345 of 2018

and

C.M.P (MD)No.4596 of 2018

WEB COPY

The Branch Manager,
National Insurance Company Ltd.,
4132, Keelaraja Veethi,
Pudukkottai.

.. Appellant/
2nd Respondent

Vs.

1.Selvi

2.Minor Abirami

3.Minor Aparna

[Minor respondents 2 and 3 are represented
by their mother and natural guardian, 1st
respondent]

4.Arichi

5.Muthiah

.. Respondents 1 to 5 /
Claimants

6.K.P.R.Kumar

7.S.Parimala

8.The Branch Manager,
Royal Sundaram Alliance Insurance
Company Limited,
46, Whites Road,
Chennai - 600 014.

.. Respondents 6 to 8 /
Respondents 1,3 & 4

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 13.04.2009, passed in M.C.O.P.No.182 of 2006 by the Motor Accident Claims Tribunal / Principal District Court, Pudukkottai.

For Appellant : Mr.N.Murugesan

For Respondent No.1 : Mr.N.Balakrishnan

For Respondent No.8 : Mr.M.E.Ilango



JUDGMENT

It is a case of fatal. The manner of the accident is not in dispute. The Tribunal has awarded a sum of Rs.6,00,000/- towards loss of income, Rs.25,000/- towards loss of consortium, Rs.30,000/- towards loss of love and affection, Rs.5,000/- towards funeral expenses, totally Rs.6,60,000/- as compensation. The Tribunal has directed the appellant / Insurance Company and sixth respondent to pay the entire compensation amount with 7.5% interest per annum from the date of petition till the date of realization. The appellant / Insurance Company has filed this appeal questioning the quantum.

2.The learned counsel appearing for the appellant / Insurance Company would submit that though it has been contended on the side of the claimants that the deceased was doing masonry work in abroad and no document has been filed in respect of the income of the deceased, the Tribunal has fixed the notional monthly income of the deceased as Rs.3,125/-, which is on the higher side. Thus, he prayed to reduce the award passed by the Tribunal.

3.The learned counsel appearing for the 1st respondent / 1st claimant would submit that the Tribunal has awarded only lesser amount as compensation and therefore, the same may not be interfered with.

4.Heard the learned counsel appearing for the parties and perused the records carefully.

5.The date of accident is on 18.05.2005. It is not in dispute that the deceased was aged about 40 years at the time of accident. Before the accident, the deceased was stated to be doing masonry work in abroad and earning a sum of Rs.20,000/- 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 the salary of the deceased only as Rs.150/- per day and deducted Rs.25/- towards personal expenses. The Tribunal has also observed that the deceased would have job only for 25 days in a month and accordingly, fixed Rs.3,125/- as notional monthly income of the deceased and taken multiplier 16 and accordingly, awarded a sum of Rs.6,00,000/- towards loss of income. The award passed towards loss of consortium, love and affection and funeral expenses, are not on the higher side. 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. It is represented by the learned counsel for the appellant / Insurance Company that the entire award amount has been deposited before the Tribunal. The major 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 application before the Tribunal. The shares of minor claimants shall be deposited in anyone of the nationalised banks till they attain majority and the guardian is entitled to get interest accrued from the said deposit once in three months. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Motor Accident Claims Tribunal,
Principal District Court,
Pudukkottai.

Coy to: The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.N.MURUGESAN, Advocate SR-79858.
+1 CC to Mr.M.E.ILANGO, Advocate SR-80342.
+1 CC to Mr.N.BALAKRISHNAN, Advocate SR-80385.

**JUDGMENT MADE IN
C.M.A(MD)No.345 of 2018
05.08.2019**

CS(25.09.2019) 3P 7C