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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2019

CORAM

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

C.M.A (MD) No.1843 of 2013

and

M.P (MD) No.3 of 2013

The Branch Manager,
Oriental Insurance Company Limited,
C.K.H. Building,
Thazhepalam, Ponnani Road,
Tirur, Kerala - 627 010.

.. Appellant/
2nd Respondent

Vs.

1.Veerammal

2.Somasundaram

3.Thiyagarajan

4.Pappathi

.. Respondents
1 to 4 / Claimants

5.Haneefa
[R5 - Given up]

.. 5th Respondent /
1st Respondent

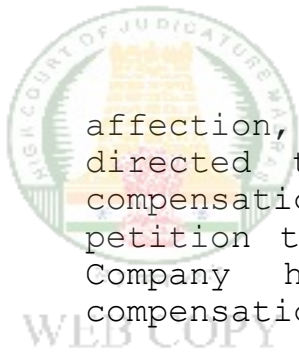
PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 22.08.2012, passed in M.C.O.P.No.234 of 2012 by the Motor Accident Claims Tribunal / Additional District and Sessions Court, Pudukkottai.

For Appellant : Mr.C.Jawahar Ravindran

For Respondents 1 to 4 : Mr.P.Ganapathi Subramanian

JUDGMENT

It is a case of fatal. The manner of the accident is not in dispute. The Tribunal has awarded a sum of Rs.4,76,000/- towards loss of income, Rs.5,000/- towards funeral expenses, Rs.10,000/- towards loss of estate and Rs.50,000/- towards loss of love and



affection, totally Rs.5,41,000/- as compensation. The Tribunal has directed the appellant / Insurance Company 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 of compensation.

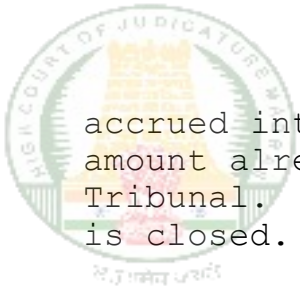
2.The learned counsel appearing for the appellant / Insurance Company would submit that at the time of accident, the deceased was a student and the Tribunal has erroneously fixed Rs.3,500/- as monthly income of the deceased and deducted only 1/3 towards personal expenses instead of 50% and awarded Rs.5,41,000/- as compensation, which is on the higher side. Thus, he prayed to reduce the compensation.

3.The learned counsel appearing for the respondents 1 to 4 / claimants would submit that the Tribunal has rightly fixed Rs.3,500/- as monthly income of the deceased and adopted multiplier 17 considering the age of the deceased and accordingly, awarded a sum of Rs.5,41,000/- as compensation. The Tribunal has not added any amount towards future prospects. Thus, he prayed to dismiss the appeal.

4.Heard the learned counsel appearing for the appellant / Insurance Company and the learned counsel appearing for the respondents 1 to 4/ claimants and perused the materials available on record.

5.The date of accident is on 31.07.2008. In the claim petition, it is stated that the deceased was aged about 16 years at the time of accident and he was studying 9th standard. As per Ex.P.28, the deceased was a sportsman. Considering the above, the Tribunal has fixed Rs.3,500/- as notional monthly income of the deceased and adopted multiplier 17 and also deducted 1/3 towards his personal expenses and accordingly awarded a reasonable sum of Rs.4,76,000/- towards loss of income. It is also seen that the Tribunal has not added any sum towards future prospects. The Tribunal has awarded only a meagre sum of Rs.50,000/-towards loss of love and affection. The award passed towards loss of estate and funeral expenses is 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. The appellant / Insurance Company is 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 if any, by filing an application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Motor Accident Claims Tribunal,
Additional District and Sessions Court,
Pudukkottai.

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

+1cc to Mr.C.Jawahar Ravindran, Advocate, SR.No. 70497

+1cc to Mr.P.GANAPATHI SUBRAMANIAN, Advocate, SR.No.70627

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KK/SAR/17.07.2019/3P-6C