

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1043 of 2012

and

MP No.1 of 2012

The United India Insurance Company Limited,
Manjakuppam,
Bharathi Road,
Cuddalore.

... Appellant/2nd Respondent

Versus

1. Krishnaveni
2. Poonguzali
3. Thiyagarajan
4. Vinothraj

... Respondents 1 to 4/
Petitioners

5. K.Rangan

... 5th Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 12.08.2011 made in M.C.O.P. No.368 of 2007 on the file of the Motor Accidents Claims Tribunal, Principal Sub Judge, Tindivanam.

For Appellant : Mr.S.Arun Kumar

For Respondents: R1 to R5 - Served
No appearance

JUDGMENT

(This appeal was taken up for hearing through Video conferencing)

This appeal has been filed by the Insurance Company challenging the quantum of compensation awarded by the Tribunal to the claimants under the award dated 12.08.2011 passed by

the Motor Accidents Claims Tribunal, Principal Sub Judge, Tindivanam in MCOP No.368 of 2007.

2.The contention of the appellant / Insurance Company in this appeal is that the quantum of compensation awarded to the claimants is excessive. According to them, the deceased would have attained Superannuation between seven to eight years from the date of the accident and hence, the salary income of the deceased cannot be capitalized for 13 years. It is also their case that the Tribunal erred in fixing Rs.16,373/-p.m. as income of the deceased relying on Ex.P4, despite the fact that the statement of accounts or Form 16 was not produced to ascertain the deduction towards income tax payable. It is also their contention that the compensation awarded under various other heads by the Tribunal is also excessive.

3.The details of the impugned award are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of dependency	20,55,641
Transportation	5,000/-
Love and affection (Rs.15,000 x 4)	60,000/-
Funeral expenses	5,000/-
Loss of consortium	25,000/-
Total	21,50,641/-

4. Heard Mr.S.Arun Kumar, learned counsel for the appellant. The respondents have been duly served in this appeal and their names having been printed in the cause list today but there is no appearance on their side.

5. This Court has perused the materials and evidence available on record before the Tribunal.

6. Insofar as the cause of the accident is concerned, the appellant/ Insurance Company has not raised any dispute in this appeal. Therefore, the findings of the Tribunal that the death of the deceased was caused only due to the rash and negligent driving by the Driver of the insured vehicle has now become final.

7. Insofar as the quantum of compensation is concerned, the Tribunal has not awarded any compensation towards loss of future prospects to the claimants which they are legally entitled to as per the settled position of law as laid down by the Hon'ble

Supreme Court in the case of the National Insurance Co. Ltd. vs. Pranay Sethi reported in 2017 16 SCC 680. However, the contention of the appellant / Insurance Company that the remaining service of the deceased as a Head Master will be only for an another period between seven to eight years from the date of the accident. Hence, according to them, split multiplier has to be applied. Therefore, there is some merit in the contention raised by the appellant / Insurance Company as admittedly, the deceased was aged 50 years at the time of the accident and he had an unexpired period of service only for a period of eight years and therefore, the Tribunal ought to have considered this aspect under the impugned award. As seen from the impugned award, the said aspect has not been considered by the Tribunal. The Tribunal has applied the 13 multiplier as laid down by the decision of the Hon'ble Supreme Court in the case of Sarala Verma & Ors vs. Delhi Transport Corp. & Anr. reported in 2009 6 SCC 121 without giving due consideration to the contention of the appellant / Insurance Company, when the remaining service of the deceased is only for a period of eight years. However, considering the fact that the Tribunal ought to have granted loss of future prospects to the deceased, which it has not done so, the overall compensation awarded towards Loss of dependency to the claimants is a just compensation. Before the Tribunal, the claimants have also established, that the deceased was earning Rs.16,373/- as a Head Master at the time of the accident and the salary certificate has also been marked as Ex.P4.

8. With regard to the compensation awarded under various other heads viz., Rs.5,000/- towards Transportation; Rs.15,000/- towards loss of love and affection to each of the claimants; Rs.5,000/- towards funeral expenses and Rs.25,000/- towards loss of consortium is a just compensation, considering the fact that loss of future prospects was not granted to the claimants by the Tribunal.

9. For the foregoing reasons this Court does not find any merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.368 of 2007, on the file of the Motor Accidents Claims Tribunal, (Principal Sub Judge, Tindivanam), within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made,

the Tribunal is directed to transfer the award amount directly to the bank accounts of the first to fourth respondents / claimants, as per the same ratio of apportionment made by the Tribunal, through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vsi2

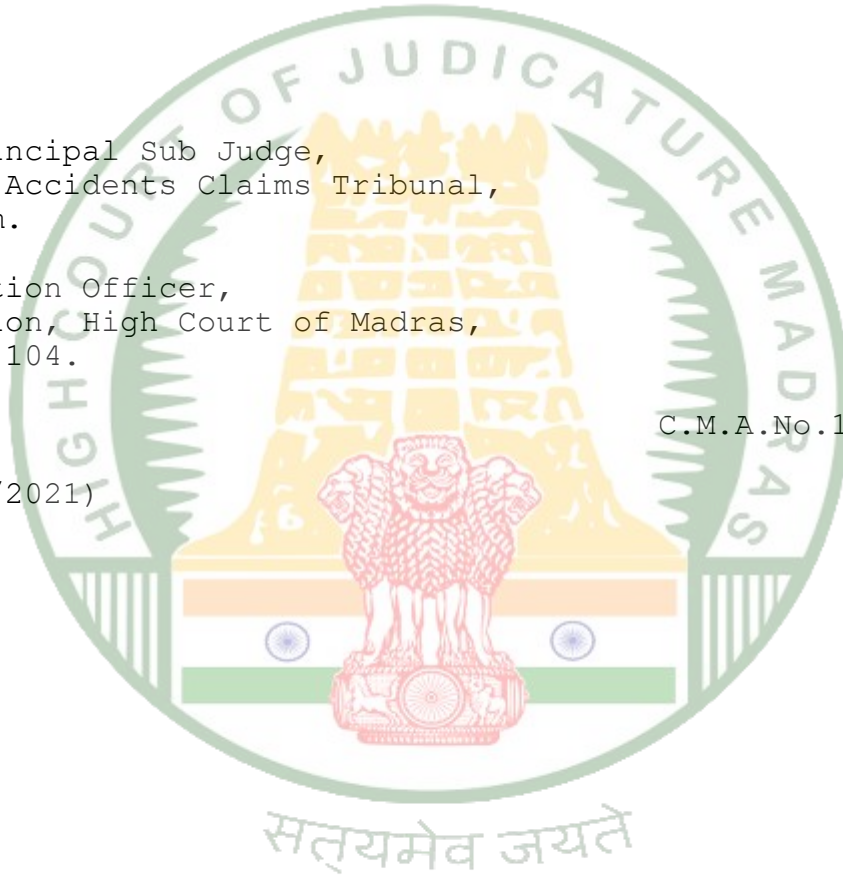
To

1. The Principal Sub Judge,
The Motor Accidents Claims Tribunal,
Tindivanam.

2.The Section Officer,
V.R. Section, High Court of Madras,
Chennai - 104.

C.M.A.No.1043 of 2012

GP(CO)
RMP(20/04/2021)



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