

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3587 of 2011

and

M.P.No.1 of 2011

(Through Video Conferencing)

M/s. Oriental Insurance Co. Ltd.,
Represented by its Branch Manager,
1st Floor, No.221, Cubbonpet,
Main Road, N.R. Square,
Bangalore. Appellant/2nd Respondent

Vs.

1.Pushpa

2.K.Pachiappan

3.Govindaraj

4.Minor.Kumaravel

Represented by next friend mother Pushpa

5.Muniammal

...Respondents 1 to 5/Claimants

6.M/s.Shama Transport,

Represented by Syed Azaz,

No.16/1, A.V.Road,

Opp. Kalasipalayam Bus Stand,

Bangalore-560 002

...6th Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree passed in M.C.O.P.No.1462 of 2006 on 09.07.2010 on the file of the learned Motor Accident Claims Tribunal (Chief Judicial Magistrate - Judge) at Krishnagiri District.

For Appellant : Mr.J.Chandran

For Respondents: No appearance

J U D G M E N T

Though there is no representation for the respondents and since the case is pending from the year 2011 and in view of the fact that no adverse order is being passed against the respondents, this Civil Miscellaneous Appeal is taken up for final disposal based on the submissions of the learned counsel for the appellant.

2. The present Civil Miscellaneous Appeal has been filed against the judgment and decree dated 09.07.2010 passed by the learned Chief Judicial Magistrate, the Motor Accident Claims Tribunal, Krishnagiri (Chief Judicial Magistrate, Court) in M.C.O.P.No.1462 of 2006 .

3. By the impugned order, the Tribunal has awarded a sum of Rs.8,65,000/- as compensation to the 1st to 5th respondents as detailed below:-

Loss of dependency Income : Rs.6,000 Per month Personal Expenses : 1/4 th (i.e.Rs.1,500/-) (6,000 - 1,500 = 4,500) [4,500 X 12 X 15]	Rs.8,10,000/-
Loss of consortium to the 1 st respondent herein	Rs. 25,000/-
Loss of love and affection	Rs. 25,000/-
Funeral Expenses	Rs. 5,000/-
Total Compensation	Rs.8,65,000/-

4.The facts of the present case are that the 1st to 5th respondents are the legal representatives of the deceased Krishnamurthy, who died in an accident on 12.06.2006. According to the 1st to 5th respondents/ claimants, at the time of death, the deceased Krishnamurthy was earning a sum of Rs.7,000/- per month. The Tribunal has fixed the income of the deceased as Rs.6000/-.

5. According to the appellant/ Insurance Company, the Tribunal erred in fixing the monthly income of the deceased Krishnamurthy as Rs.6,000/- by deducting 1/4th towards personal expenses of the deceased instead of 1/3rd and has applied the multiplier of 15 and has awarded the compensation without

considering the age of the deceased Krishnamurthy.

6. I have perused the impugned order and the records. The Tribunal has correctly deducted the 1/4th of the income towards personal expenses of the deceased Krishnamurthy and therefore, there is no infirmity in the impugned order. Further, since there were five dependents of the deceased Krishnamurthy, namely, the 1st to 5th respondents/claimants, the amount as determined by the Tribunal towards the personal expenses of the deceased Krishnamurthy appears to be correct. The Tribunal has awarded a just compensation to the 1st to 5th respondents / claimants.

7. Observations contained herein shall not however be to the prejudice of the respondents in case they have independently filed any other appeal for enhancement of compensation.

8. There are no merits in the present Civil Miscellaneous Appeal. Therefore, the present Civil Miscellaneous Appeal is liable to be dismissed.

9. Though the Tribunal has directed the appellant Insurance Company and the 6th respondent to deposit the compensation jointly or severally, I am of the view that it is the appellant Insurance Company which is liable to pay the compensation to the 1st to 5th respondents as the appellant Insurance Company has contracted a contract of indemnity to indemnify the 6th respondent against any liability that may be fastened against him under the Motor Vehicles Act, 1988.

10. The appellant is therefore directed to deposit the balance amount of compensation and cost if any, before the Tribunal, together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit, within a period of eight weeks from the date of receipt of a copy of this judgment. The 1st to 5th respondents are permitted to withdraw the same by filing suitable application before the Tribunal.

11. The present Civil Miscellaneous Appeal stands dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

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To

The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate, Court),
Krishnagiri.

C.M.A.No.3587 of 2011
and M.P.No.1 of 2011

GMV (16/04/2021)



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