

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2020

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.No.2785 of 2015

and M.P.No.1 of 2015

(Heard through video conferencing)

New India Assurance Co.Ltd.,
Aristo Complex,
Mahe.

... Appellant/3rd Respondent

Vs.

1.Leela
2.Bindhu
3.Rajeesh

... Respondent 1 to 3/ Appellant 1 to 3

4.President,
Mahe Transport Co-op Society Ltd.,
Mahe.

... 4th Respondent/1st Respondent

5.T.K.Raveendran

...5th Respondents/2nd Respondent

Prayer:- This Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 9th day of October 2014 made in M.C.O.P.No.6 of 2014, on the file of the Motor Accident Claims Tribunal, (Sub Court), Mahe and be pleased to dismiss the above claim.

For Appellant : Mr.S.Dhakshnamoorthy

For Respondents: Mr.S.Anbarasan [R1to R3]
R4 & R5 [No Appearance]

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award passed by the Motor Accident Claims Tribunal, (Sub Court), Mahe in M.C.O.P.No.6 of 2014 dated 09.10.2014.

2. Heard the learned counsel appearing for the appellant and the learned counsel for the respondents.

3. It is the case where the compensation of Rs.6,98,000/- was awarded to the dependents of the motor accident victim

Mr.Rangan, who was about 60 years old at the time of the accident. The claimants are the wife and adult children of the victim. The claim is based on the facts that at the time of death, Rangan was earning around Rs.15,000/- as Contractor and the death has deprived the claimants' dependency, consortium, estate and love and affection. The Tribunal had notionally fixed Rs.300/- per day as wages for the deceased, since, no document was produced to prove his income. After deducting 1/3rd for his personal expenses fixing Rs.6,000/- as fundamental applying the multiplier 9 awarded Rs.6,48,000/- towards loss of dependency and another Rs.50,000/- towards other conventional heads.

4. In the appeal, the Insurance Company contends that the Tribunal went wrong in assessing the wage of the deceased at Rs.300/- per day and also erred in applying the multiplier 9 without any basis instead of 5.

5. The learned counsel for the respondents 1 to 3 would submit that the deceased was working as a Contractor and earning more than Rs.15,000/- per month, however, the Tribunal has restricted it to Rs.9,000/-. Hence, there is no error in fixing of income of the deceased. Also relying upon the Aadhar card, age of the deceased was ascertained by 58 years by the Tribunal, accordingly, multiplier 9 was applied. The learned counsel would further submit that if the subsequent judgment of the Hon'ble Supreme Court rendered in National Insurance Co.Ltd., Vs. Pranay Sethi and others (2017 (2) TN MAC 609 (SC)) applied for the loss of future income and consortium, the Tribunal should have awarded the claimants who are entitled for an additional enhanced compensation.

6. A perusal of the evidence indicates that the claimants have not placed any document to prove the income of the deceased, however, the Tribunal has fixed the daily wage of the person at Rs.300/- per day. The dependents are the wife, son and daughter of the deceased. The son and daughter were aged 27 and 29 years old respectively at the time of accident. Their dependency upon the elderly father for his income cannot be equated to a dependency of a teenager or young children. However, the Tribunal has liberally fixed the loss of dependency and has awarded Rs.6,48,000/- which in view of this Court is adequate, fair and just. Though the multiplier and the foundation income may vary, it will be around the same figure if the notional income is fixed as Rs.6,000/- per month and future prospect of 10% is added. The award amount will almost be the same except distributing it under different heads of conventional and non-conventional loss.

7. Hence, at this point of time, this Court finds no reason to interfere with the award of the Tribunal. Therefore, the Civil Miscellaneous Appeal is dismissed. Connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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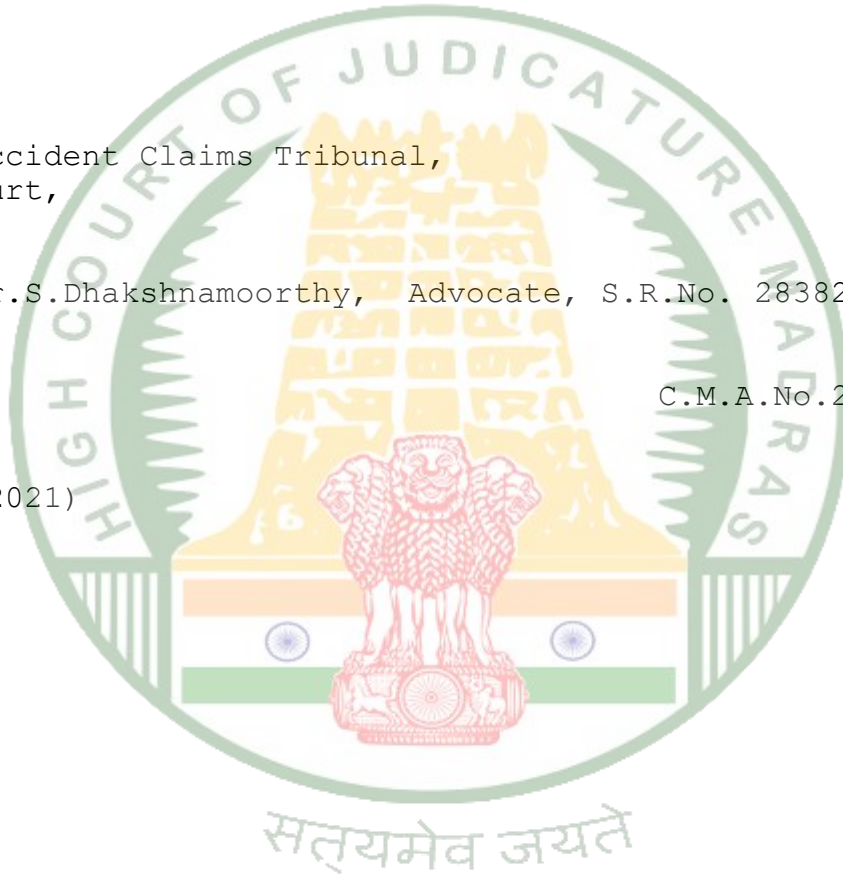
To

1.Motor Accident Claims Tribunal,
Sub Court,
Mahe.

+1cc to Mr.S.Dhakshnamoorthy, Advocate, S.R.No. 28382

C.M.A.No.2785 of 2015

VSN II(CO)
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