



WEB COPY

C.M.A.(MD)No.722 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.M.A. (MD)No.722 of 2019

and

C.M.P. (MD)No.9253 of 2019

National Insurance Company Ltd.,
Divisional Office, Madurai,
Rep. Through its Divisional Manager,
Madurai.

... Appellant/2nd Respondent

vs.

1.R.Sunthayi

...1st respondent/Petitioner

2.M/s.Dhakshin Structures P Ltd.,
Dhakshin Structure P Ltd.,
379, Madurai Road,
Tower Building,
Theni District.

..2nd Respondent/Respondent No.1

3.Jeyaraj
(Amended as per order in I.A.287/2018
dated 18.12.2018)

.. 3rd Respondent/Respondent No.3

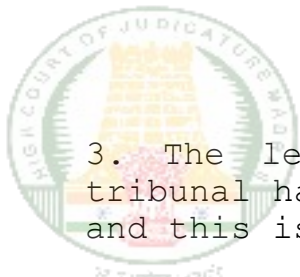
PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award made in M.C.O.P.No.95 of 2016 dated 05.01.2019 on the file of Motor Accidents Claims Tribunal, Additional District Judge, FTC, Theni.

For Appellant : Mr.D.Sivaraman
For R1 : Mr.K.Suresh Kumar
For R2 & R3 : No Appearance

JUDGMENT

In a road accident that held on 25.11.2015, a certain Aadhavan was travelling as a passenger in Maruti Omni Car bearing Registration No.TN-60-K-0392 died, when the Van crashed on a tree on the road side. Claiming compensation, his widowed mother aged about 45 years and his younger brother approached the Tribunal. As against the total compensation of Rs.30 lakhs claimed by the claimants, the Tribunal has awarded Rs.23,53,000/-.

2. Aggrieved by the compensation awarded on the head of loss of dependency, the Insurance Company has approached this Court.



3. The learned counsel for the appellant would argue that the tribunal has fixed the notional income of the victim at Rs.15,000/- and this is on much higher side.

4. The victim of the accident is a Diploma holder from Polytechnic and he is aged about 23 years. His widowed mother is aged about only 45 years and younger brother is studying. It is very obvious that the family is looking up to him for support.

5. The learned counsel submitted that, the Tribunal has followed **Mekala Vs. M.Malathi and another** [2014 (2) TNMAC 6 (SC)] to fix the notional income to the victim at Rs.15,000/-, whereas in the said authority, the notional income was fixed at only Rs.10,000/-.

6. The notional income, which the Court fixes can vary from place to place, locality to locality, nature and job and type of employment opportunity and such other factors. There cannot be straitjacket formula for the same. Even if the argument of the learned counsel for the appellant were to be considered, yet the accident involved in the case reported in [2014 (2) TNMAC 6 (SC)] has taken place in 2008, whereas the accident in this case has taken place in 2015. This Court looked for certain rationale for reducing the notional income so fixed. The learned counsel could not support the same with any credible evidence. In conclusion, this Court does not find any force in the submission of the appellant's counsel convincing enough to interfere with the award.

7. The learned counsel for the appellant is now required to deposit the balance amount required to be deposited before the Tribunal. This Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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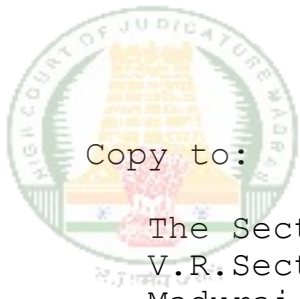
/ /2021

Sub Assistant Registrar(CS)

Cm

To

1.The Motor Accidents Claims Tribunal,
Additional District Judge, FTC, Theni.



Copy to:

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1cc to Mr.D.Sivaraman, Advocate Sr.No.24184
+1cc to Mr.K.Suresh Kumar, Advocate Sr.No.24114
+1cc to Mr.N.Pragalathan, Advocate Sr.No.24313

C.M.A. (MD) No.722 of 2019.
and
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04.12.2020

SRK (CO)
NR (18/01/2020) 3P : 7C