



C.M.A.(MD)No.10 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 14.12.2022

Delivered On : 19.12.2022

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A.(MD)No.10 of 2014

United India Insurance Co. Ltd.,
through its Branch Manager,
Branch Office, Main Road,
Kovilpatti.

.. Appellant /2nd Respondent

Vs.

1.M.Koilraj

2.K.Amala

3.K.Vinoth Prabhu

4.R.Clara Pushpa

... Respondents 1 to 4 / Petitioners

5.R.Chitra

... 5th Respondent / 1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decreetal order, dated 27.08.2013, made in M.C.O.P.No.1369 of 2012, on the file of the Motor Accident Claims Tribunal (III Additional District Judge), Tirunelveli.

For Appellant

: Mr.A.S.Mathialagan

For Respondents

: Mr.T.Antony Arul Raj for R1 to R4

: Dispensed with for R5



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JUDGMENT

WEB COPY This Civil Miscellaneous Appeal has been filed against the award, dated 27.08.2013, made in M.C.O.P.No.1369 of 2012, on the file of the Motor Accident Claims Tribunal (III Additional District Judge), Tirunelveli. The appellant herein is the second respondent, the respondents 1 to 4 herein are the claimants and the fifth respondent herein is the first respondent in the original M.C.O.P. Petition.

2. A Brief substance of the claim petition in M.C.O.P.No.1369 of 2012, is as follows:

On 27.06.2012, at about 08.30 am., when the deceased – Ananth Rajesh, was riding a two wheeler, bearing Registration No.TN-72-AB-5854, in front of C.S.I. Church, Perumalpuram, a Van, bearing Registration No.TN-55-3793, which was driven by its driver in a rash and negligent manner, hit against the motorcycle and the deceased sustained injuries. He was taken to T.V.M.C Hospital and there he succumbed to the injuries. The deceased was working as a Driver and he was earning Rs.8,000/- per month. The petitioners are his dependents and they claimed a sum of Rs15,00,000/- as compensation.

3. A brief substance of the counter filed by the second respondent in M.C.O.P.No. 1369 of 2012, is as follows:



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WEB COPY The accident did not occur due to the negligence of the van driver. It was the rider of the motorcycle, who was rash and negligent. The deceased was an unmarried person. As per the decision of the Hon'ble Supreme Court multiplier ought to have been adopted on the basis of the age of the parents. The age, income are to be proved. The claim is excessive.

4. 3 witnesses were examined and 9 documents were marked, on the side of the claimants. No witness was examined and no document was marked, on the side of the respondents. After considering both sides, the Tribunal has awarded a sum of Rs.9,21,000/-.

5. Against the order, the second respondent / appellant has filed this appeal on the following grounds:-

The Tribunal failed to consider that the father of the deceased should be having independent income and he was not a dependent. The deceased being a bachelor, might have spent more amount for himself. The Tribunal ought to have deducted 50% towards the own expenses of the deceased. The Tribunal is wrong in adopting multiplier '17' and the multiplier ought to have been adopted on the basis of the age of the dependents.



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6. On the basis of the evidence of P.W.1 and P.W.2 and on the basis of Ex.P1-F.I.R, Ex.P2- copy of observation mahazer, Ex.P3 and Ex.P4-M.V.Reports. Ex.P4-Rough sketch, Ex.P6-charge sheet, the Tribunal has fixed the liability on the van driver, which is reasonable.

7. On the side of the appellant, it is stated that the Tribunal fixed the monthly income as Rs.6,000/-, which is excessive. On the side of the claimants, it is stated that the salary ought to have been enhanced. The claim of the claimants is that the deceased was working as a driver and he was earning Rs.8,000/- per month. Ex.P9 was the salary certificate. P.W.3 has deposed that he was paying Rs.8,000/- per month as salary for the deceased. The Tribunal fixed the notional monthly income as Rs.6,000/- p.m. Considering the date of accident and considering the evidence of P.W.3 and Ex.P9, the income is fixed as Rs.8,000/- per month.

8. On the side of the appellant, it is stated that the Tribunal is wrong in deducting 1/3rd of the income and 50% ought to have been deducted in the case of death of bachelor. The deceased was a bachelor and hence 50% ought to have been deducted. After deducting 50% (Rs.4,000/-) for his own expenses, the deceased might have contributed Rs.4,000/- per month, to his family members.



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WEB COPY 9. On the side of the appellant, it is stated that the multiplier ought to have been adopted on the basis of the age of the dependents. On the side of the claimants, it is stated that the age of the bachelor is to be taken into consideration for fixing the multiplier. A judgment of the Hon'ble Supreme Court in ***S.L.P.No.3397 of 2012 (Amrit Bhanu Shali and others V. National Insurance Co.Ltd. and others)*** is cited, wherein, the Hon'ble Supreme Court has held as follows:-

“17. The selection of multiplier is based on the age of the deceased and not on the basis of the age of dependent. There may be a number of dependents of the deceased whose age may be different and, therefore, the age of dependents has no nexus with the computation of compensation.”

10. Since the deceased was a bachelor, multiplier ought to have been adopted on the basis of the age of the deceased. The age of the deceased at the time of accident was 25 years, hence, multiplier '17' is applicable. The loss of income is calculated as Rs.8,16,000/- (Rs.4,000/- X 12X 17).

11. The Tribunal has awarded Rs.1,00,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses, which are all reasonable.



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WEB COPY 12. In the above circumstances, it is decided that there is nothing sufficient enough to interfere in the award of the Tribunal. Hence, this Appeal is dismissed. No costs.

(i) The quantum of compensation awarded by the Tribunal is hereby confirmed.

(ii) The appellant - Insurance Company, is directed to deposit the entire compensation of Rs. 9,21,000/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and with costs, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the appellant / Insurance Company, the respondents 1 to 4 / claimants are permitted to withdraw their share amount as apportioned by the Tribunal with interest and costs, on filing of proper petition before the Tribunal, less any amount, if already withdrawn by them. The claimants are not entitled for interest for the default period, if there is any.

19.12.2022

Index : Yes/No
Internet : Yes/No
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To
WEB COPY

- 1.The III Additional District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R. THARANI, J.

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Pre-delivery Judgment made in
C.M.A.(MD)No.10 of 2014

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