



C.M.A.(MD).No.1439 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1439 of 2013

The Branch Manager,
The New India Assurance Company Ltd.,
Coimbatore Post.

.....Appellant/Respondent No.3

-vs-

1. Thankappan
2. Rajam
3. Sunitha
4. Rajasekar
5. Loganathan
6. Venkatachalam
7. Mani

... Respondents 1 to 4/Petitioners 1 to 4

... Respondents 5 to 7/Respondents 1 to 3

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award made in M.C.O.P.No.69 of 2008, dated 07.09.2012, on the file of the Motor Accidents Claims Tribunal, Sub Court, Kulithurai.

For Appellant : Mr.D.Sivaraman

For Respondents : No appearance



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The present Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the award passed by the Motor Accidents Claims Tribunal/Sub Court, Kulithurai in M.C.O.P.No.69 of 2008, primarily on the ground of quantum.

2. The deceased was aged about 30 years, he was working in Boat Repairing Company, he was drawing income of a sum of Rs.6,000/- (Rupees Six Thousand only) per month. He met with an accident on 26.02.2007 and he died on the way to the hospital.

3. The Tribunal fixed the notional income as Rs.6,000/- (Rupees Six Thousand only) and applied multiplier of “15” and arrived at a sum of Rs.7,20,000/- (Rupees Seven Lakhs Twenty Thousand only) towards loss of income. The Tribunal has deducted 1/3rd towards personal expenses. A sum of Rs.500/-(Rupees Five Hundred only) has been awarded towards transportation charges. A sum of Rs.10,000/- (Rupees Ten Thousand only) has been awarded towards funeral expenses. A sum of Rs.25,000/- (Rupees Twenty Five Thousand only) was awarded towards loss of love and affection



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to each one of the claimants. Totally, a sum of Rs.8,30,500/- (Rupees Eight Lakhs Thirty Thousand and Five Hundred only) was awarded. Challenging the said award, the present appeal has been filed by the Insurance Company.

4. Though the respondents have been served, they have not chosen to appear either in person or through their counsel. Mr.P.Muthuvel, learned counsel has filed vakalat for the respondents 2 to 4 and the same has been returned on 03.04.2023.

5. According to the learned counsel for the appellant, the deceased being bachelor, 50% of the amount should have been deducted towards personal expenses. However, only 1/3rd was deducted by the Tribunal. Hence, he prayed for reduction of the award amount.

6. The Tribunal has taken the notional monthly income of the deceased person at Rs.6,000/- (Rupees Six Thousand only). However, no amount has been added towards future prospects. Considering the age of the deceased person, 40% could be added to the notional monthly income as future prospects. Then, the monthly income would be at Rs.8,400/- (Rupees Eight Thousand and Four Hundred only). If 50% is deducted towards personal



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expenses, then the monthly income would be at Rs.4,200/- (Rupees Four Thousand and Two Hundred only).

7. This Court finds that the Tribunal has not followed the ***Sarala Varma case*** in adopting the multiplier. The correct multiplier is “17”. Therefore, the total award towards loss of income is $\text{Rs.}4200 \times 12 \times 17 = \text{Rs.}8,56,800/-$ (Rupees Eight Lakhs Fifty Six Thousand and Eight Hundred only). All the four claimants would be each entitled to Rs.40,000/- (Rupees Forty Thousand only) towards loss of love and affection. The claimants would be entitled to a sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards funeral expenses and a sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards loss of estate. Therefore, the total award amount would be at Rs.10,97,200/- (Rupees Ten Lakhs Ninety Seven Thousand and Two Hundred only). However, the Tribunal has awarded only a sum of Rs.8,30,500/- (Rupees Eight Lakhs Thirty Thousand and Five Hundred only).

8. In view of the above said deliberations, the award of the Tribunal is modified as follows:



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Loss of income (Rs.4,200x12x17)	: Rs.8,56,800/-
Loss of Love and Affection (Rs.40,000x4)	: Rs. 1,60,000/-
Funeral Expenses	: Rs. 15,000/-
Loss of Estate	: <u>Rs. 15,000/-</u>
Total	: Rs.10,46,800/-

9. In view of the judgment of the Hon'ble Supreme Court, just compensation could be awarded to the claimants. The award amount is enhanced from Rs.8,30,500/- to Rs.10,46,800/- (Rupees Ten Lakhs Forty Six Thousand and Eight Hundred only) and the said enhanced amount will carry interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization. The second claimant shall be entitled to a sum of Rs.5,30,500/- (Rupees Five Lakhs Thirty Thousand and Five Hundred only) and the claimants 1, 3 and 4 shall be entitled to a sum of Rs.1,72,100/- (Rupees One Lakh Seventy Two Thousand and One Hundred only) each. The appellant/ Insurance Company is directed to deposit the enhanced award amount along with interest and cost within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any.



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10. Accordingly, this Civil Miscellaneous Appeal is disposed of on the above said terms. There shall be no order as to costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accidents Claims Tribunal,
Sub Court, Kulithurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

1. Thankappan,
S/o. Thamasam Seria Pillai,
Marayapuram Kunthathuvilai,
Kappikkadu Post,
Vilavancode Taluk,
Kanyakumari District.
2. Rajam,
W/o. Thankappan
Marayapuram Kunthathuvilai,
Kappikkadu Post,
Vilavancode Taluk,
Kanyakumari District.



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3. Sunitha,
D/o. Thankappan
Marayapuram Kunthathuvilai,
Kappikkadu Post,
Vilavancode Taluk,
Kanyakumari District.

4. Rajasekar,
S/o. Thankappan
Marayapuram Kunthathuvilai,
Kappikkadu Post,
Vilavancode Taluk,
Kanyakumari District.



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R.VIJAYAKUMAR,J.

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