



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Rev.Applc (MD) No.27 of 2023

in

CMA (MD) No.1035 of 2021

1.Mahalakshmi
2.Minor.Prasuram
3.Marimuthu
4.Mariammal ... Petitioners / respondents 1 to 4
(Minor 2nd petitioner represented through
his mother & guardian -1st petitioner)

Vs.

1.The Divisional Manager,
Oriental Insurance Company Ltd.,
Having its office at 1st floor,
Lyola Campus, Salai Road,
Dindigul Town. ... 1st respondent / appellant
2.Natarajan ... 2nd Respondent / 5th respondent

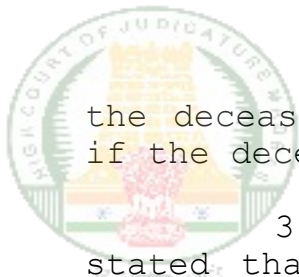
PRAYER :- Review Application is filed under Order 47 Rule 1 r/w Section 114 of the Code of Civil Procedure, against the judgment and decree, dated 04.11.2022 passed by this Court made in C.M.A.(MD)No. 1035 of 2021 on the file of this Court.

For Review Petitioners : Mr.S.Pugalendhi
For Respondents : Mr.C.Jawahar Ravindran for R1

ORDER

This Review Application is filed against the judgment passed in C.M.A.(MD)No.1035 of 2021, dated 04.11.2022. The Civil Miscellaneous Appeal is filed against the order in M.C.O.P.No.534 of 2013 on the file of the Motor Accident Claims Tribunal cum Additional District Judge, Dindigul. A Cross Objection in Cros.Obj.(MD)No.6 of 2022 was filed against the order passed in M.C.O.P.No.534 of 2013.

2. On the side of the review petitioners, it was stated that the deceased was a married man, but, in the order in C.M.A. (MD)No.1035 of 2021, dated 04.11.2022, it was wrongly mentioned that



the deceased was a bachelor and the compensation was calculated as if the deceased was a bachelor and prayed the same to be rectified.

3. On the side of the first respondent / appellant, it is stated that the deceased was a married man, but, it was wrongly mentioned as unmarried man, in the order.

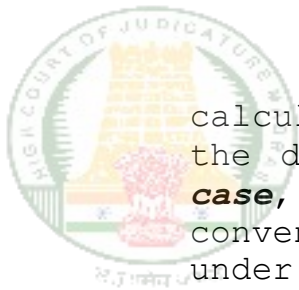
4. A perusal of the records reveals that the deceased was a married man, but, the calculation was made as if the deceased was a bachelor. This is a mistake apparent and hence, it should be rectified.

5. In paragraph No.12 of the judgment, it was mentioned that the deceased was a bachelor and 50% of the income was deducted towards his own expenses. The monthly salary was fixed as Rs. 8,000/-. Considering the fact that the deceased was a married man and considering the number of the dependants, $1/4^{\text{th}}$ of the income ought to have been deducted. After deducting $1/4^{\text{th}}$ income (Rs. 2,000/-) and after adding 40% (Rs.2,400/-) towards future prospects and after applying multiplier '18', the loss of income is calculated as Rs.18,14,400/- (Rs.8,400/- X 12 X18). After adding Rs.70,000/- towards conventional charges, the total compensation is calculated as Rs.18,84,400/- (Rupees Eighteen Lakhs Eighty Four Thousand and Four Hundred only).

6. In the result, the Appeal is dismissed and the Cross objection is partly allowed. The first claimant is entitled to Rs. 8,00,000/- with proportionate interest and costs, the second claimant is entitled to Rs.6,00,000/- with proportionate interest, the third claimant is entitled to Rs.3,00,000/- with proportionate interest and the fourth claimant is entitled to Rs.1,84,400/- with proportionate interest.

7. Paragraph No.12 and 13 of the order, to be modified as follows:-

"12.The accident took place in the year 2013. The salary certificate was marked as Ex.P5. The deceased was working as a watch man. The age of the deceased was only 24 years. In view of the same, the Tribunal has fixed notional income as Rs.8,000/-, which is very reasonable. The Tribunal deducted $1/4$ of the income for the living expenses of the deceased. Considering the fact that the deceased is **a married man, $1/4^{\text{th}}$ of the income is to** be deducted after deducting $1/4^{\text{th}}$ towards personal expenses, the deceased might have contributed Rs.6,000/- per month to his family members. The deceased was below the age of 40 years. Hence 40% future prospects is to be added. After adding 40% (Rs.2,400/-) towards future prospects, the monthly salary is calculated as Rs.8,400- (Rs.6,000/- + Rs.2,400/-). Hence, the loss of income is



calculated as Rs.18,14,400/~(Rs.8,400 x 12 x 18). As the dictum of the Hon-ble Supreme Court in **Pranay Sethi case**, the claimants are entitled to Rs.70,000/- towards conventional charges. Hence, the award is modified as under:

Loss of Income	- Rs.18,14,400/-
Conventional charges	- Rs. 70,000/-

Total	- Rs.18,84,400/-
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13. Accordingly, this Civil Miscellaneous Appeal is dismissed and the Cross objection is hereby partly allowed.

(i) The quantum of compensation awarded by the Tribunal is enhanced from Rs.15,56,000/- to **Rs.18,84,400/-** (Rupees Eighteen Lakhs Eighty Four Thousand and Four Hundred only) which shall carry interest at the rate of 7.5% per annum.

(ii) The Appellant /Insurance company, is directed to deposit the entire compensation of **Rs.18,84,400/-** (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 proportionate costs to the credit of M.C.O.P.No.534 of 2013 before the Motor Accident Claims Tribunal cum Additional District Judge, Dindigul, 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 first respondent herein/ first claimant is entitled to a share of Rs.8,00,000/- (Rupees Eight Lakhs only) with proportionate interest and costs, the third respondent herein /3rd claimant is entitled to a share of Rs.3,00,000/- (Rupees Three Lakhs only) with proportionate interest and the fourth respondent herein /4th claimant is entitled to a share of Rs.1,84,400/- (Rupees One Lakh Eighty Four Thousand Four Hundred only), with proportionate interest. The respondents 1,3 and 4 are permitted to withdraw their respective share with the interest.

(iv) The second respondent /2nd claimant (minor) herein is entitled for an amount of Rs.6,00,000/- (Rupees Six Lakhs only) with proportionate interest, which is ordered to be deposited in any one of the nationalized bank until he attains majority and the first respondent/1st claimant is permitted to withdraw the interest directly from the bank, once in three months in order to maintain the minors. The appellants/claimants are **directed to pay the court fee** for the enhanced compensation, and the Registry is directed to draft the decree only after the



payment of Court fee. No costs. Consequently, connection miscellaneous petition stands closed."

12.The Registry is directed to modify the above order in paragraph Nos.12 and 13 and to issue a fresh order copy. With the above observations, this Review Application is partly allowed. No costs.

Sd/-

Assistant Registrar(CS I)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)

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To

1.The Additional District Judge,
Motor Accident Claims Tribunal
Dindigul.

2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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24.04.2023

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