



C.M.A.(MD).No.367 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.367 of 2018

1. Mahalakshmi
2. Bavithra
3. Tamil Selvan
4. Palaniammal

.....Appellants/ Petitioners

-vs-

1. M/s. Transworld Wood Pvt. Ltd.,
2/2748 Timber Yard,
Harbor,
Bye Pass Road,
Tuticorine,
Through its Proprietor.

2. The United India Insurance Company Ltd.,
37/2, Mattappa Street,
Neel Complex II nd Floor,
Tenkasi,
Through its Divisional Manager.

.... Respondents /Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the order of award dated 30.01.2018, made in M.A.C.O.P.No.234 of 2017 passed by the learned Principal District Court, (Motor Accidents Claims Tribunal, Dindigul).



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For Appellants : Mr.T.Vadivelan
For Respondents : Mr.I.Robert Chandra Kumar – for R2
: No appearance – for R1

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimants challenging the award passed by the Motor Accidents Claims Tribunal/ Principal District Court, Dindigul, made in M.A.C.O.P.No.234 of 2017 seeking enhancement of compensation.

2. According to the claimants, the deceased was a Licensed Wiremen and he was earning a sum of Rs.15,000/- (Rupees Fifteen Thousand only) per month. He died in the accident on 09.03.2017, when he was 49 years old and he was survived his wife, two children and his mother. The claimants have prayed for a compensation of Rs.25,00,000/- (Rupees Twenty Five Lakhs only).

3. The Tribunal, after considering the oral and documentary evidence, arrived at a finding that the claimants have proved that the deceased was a licensed wire man, based upon Ex.P.4 and Ex.P.5. However, the Tribunal refused to accept the contentions of the claimants that he was earning a sum



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of Rs.15,000/- (Rupees Fifteen Thousand only) per month. The Tribunal had fixed the notional monthly income at Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) and added 10% towards future prospects. Therefore, monthly income was arrived at Rs.8,250/- (Rupees Eight Thousand Two Hundred and Fifty only) and multiplier of “11” was applied and a sum of Rs.8,16,750/- (Rupees Eight Lakhs Sixteen Thousand Seven Hundred and Fifty only) was awarded under the head of loss of dependency. The Tribunal has further awarded a sum of Rs.15,000/- towards loss of estate, a sum of Rs. 40,000/- (Rupees Forty Thousand only) towards loss of consortium, a sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards funeral expenses. The total sum of Rs.8,86,750/- was awarded. This award is under challenge seeking enhancement by the claimants.

4. According to the learned counsel appearing for the claimants, the deceased is a licensed wire man and therefore, the income should have been treated as Rs.15,000/- (Rupees Fifteen Thousand only) per month. The Tribunal had erroneously taken the notional income at Rs.7,500/- (Rupees Seven Thousand and Five Hundred only). He further contended that the amount awarded under the conventional heads are also on the lesser side and the same have to be enhanced.



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5. Per contra, the learned counsel appearing for the second respondent had contended that though the claimants have produced Ex.P.4 and Ex.P.5 Certificate and Licence obtained by the deceased, no oral or documentary evidence has been let in on the side of the claimants to establish the monthly income of the deceased person. Therefore, the Tribunal was right in fixing the monthly income at Rs.7,500/- (Rupees Seven Thousand and five Hundred only). Therefore, he prayed for confirming the award passed by the Tribunal.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the records.

7. Admittedly, the deceased person had studied in Government Industrial Training Institute and had obtained Certificate in Electrician Course and he has also obtained licence from the Government as a licensed wiremen under Ex.P.5. Therefore, there cannot be any doubt that the deceased is a licensed wiremen. However, as rightly contended by the learned counsel appearing for the second respondent, no oral or documentary evidence has been let in on the side of the claimants to establish the monthly income of the deceased person. Therefore, this Court is of the view that fixing a sum of



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Rs.7,500/- as monthly income by the Tribunal does not call for any interference.

8. The Tribunal has awarded a sum of Rs.15,000/- towards loss of estate. This Court does not find that it is on the lesser side. However, the Tribunal has awarded only a sum of Rs.40,000/- (Rupees Forty Thousand only) towards loss of consortium. Without considering the fact that the deceased had left his wife, two children and his mother as his legal heirs. Therefore, each are entitled to receive a sum of Rs.40,000/- (Rupees Forty Thousand only) towards loss of love and affection. Therefore, under the head of loss of love and affection all the claimants would be entitled to receive a sum of Rs.40,000/- (Rupees Forty Thousand only) each.

9. As far as the funeral expenses are concerned, in view of the judgment of the Hon'ble Supreme Court the funeral expenses is fixed a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) considering the fact that the accident had taken place in the year 2017.



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

Loss of Dependency	: Rs. 8,16,750/-
Loss of Estate	: Rs. 15,000/-
Loss of Love and Affection	: Rs. 1,60,000/-
Funeral Expenses	: <u>Rs. 25,000/-</u>
Total	: Rs.10,16,750/-

11. Therefore, the award of the Tribunal is enhanced from Rs.8,86,750/- (Rupees Eight Lakhs Eighty Six Thousand Seven Hundred and Fifty only) to Rs.10,16,750/- (Rupees Ten Lakhs Sixteen Thousand Seven Hundred and Fifty 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 realisation. The 1st claimant shall be entitled to Rs.4,00,000/- (Rupees Four Lakhs only). The 2nd and 3rd claimants are each entitled to Rs.2,32,375/- (Two Lakhs Thirty Two Thousand Three Hundred and Seventy Five only) and the fourth claimant is entitled to Rs.1,52,000/- (Rupees One Lakh and Fifty Two Thousand only) The Insurance Company is directed to deposit the enhanced amount within a period of eight weeks from the date of receipt of a copy of this order.



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12. Accordingly, this Civil Miscellaneous Appeal is allowed to the extent as sated above. There shall be no order as to costs.

28.04.2023

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

1. The Motor Accident Claims Tribunal/
Principal District Court, Dindigul.
2. The United India Insurance Company Ltd.,
37/2, Mattappa Street,
Neel Complex II nd Floor,
Tenkasi,
Through its Divisional Manager
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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