



C.M.A(MD)No.1159 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.08.2022

Pronounced on : **21.03.2023**

CORAM

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

C.M.A(MD)No.1159 of 2017

N.Rukmani

... Appellant/Petitioner

Vs

1.C.Murugan

2.The Branch Manager,
United India Insurance Company imited,
Branch Office No.463,
Sree Visalam Chit Fund Building,
V.O.C. Street, Karaikudi.

[1st Respondent set ex-parte before Tribunal. Hence, the 1st respondent
may be dispensed with] ...Respondents

PRAYER :-This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, to allow the appeal and modify the award passed in M.C.O.P.No.600 of 2013 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Karur, dated 19.12.2016.

For Appellant : Mr.Sudhagar Nagaraj

For R-1 : Dispensed with

For R-2 : Mr.A.S.Mathiyalagan



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JUDGMENT

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This appeal is filed to modify the award passed in M.C.O.P.No. 600 of 2013 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Karur, dated 19.12.2016.

2.Brief substance of the claim petition is as follows:

On 20.08.2013, while the deceased Natarajan was travelling as a pillion rider in a two wheeler bearing Regn. No.TN-48-Y-4671, and when the two wheeler tried to overtake a vehicle, the two wheeler skidded and the injured sustained grievous injuries. After the accident, he was taken to the Government Hospital, Thuraiyur. Due to the accidental injuries he succumbed to death. At the time of accident, he was working as a Mason and was earning a sum of Rs.650/-per day. The claimant is a dependent of the deceased. She claimed a sum of Rs.20 lakhs, as compensation.

3.Brief substance of the counter filed by the 2nd respondent is as follows:

The manner of accident as narrated in the petition was wrong. The first respondent allowed one Bommuraj, rider of the two wheeler, who



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did not have a valid driving licence to ride the two wheeler, thereby he violated the terms of the insurance policy. The compensation claimed by the petitioner is very excessive.

4. Two (2) witnesses were examined and seven (7) documents were marked on the side of the claimant. One (1) witness was examined and one (1) document was marked on the side of the 2nd respondent. After a full-fledged trial, the claim petition was allowed and the Tribunal has awarded a sum of Rs.7,32,000/-, as compensation to the claimant.

5. Against the said order, the appellant/claimant has preferred this appeal seeking enhancement of the compensation awarded by the tribunal, on the following grounds:

At the time of accident, the deceased was aged about 48 years and the tribunal has failed to grant future prospectus. The tribunal has awarded meager amount towards loss of consortium and funeral expenses and loss of estate, etc.,



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The tribunal ought to have fixed the monthly income of the deceased, as Rs.16,250/-, instead of Rs.7,000/-, and

The tribunal ought to have award a sum of Rs.1 lakh towards loss of consortium and Rs. 25,000/-for funeral expenses and Rs.1 Lakh for loss of estate and the tribunal ought to have award 9% interest.

6. On the side of the appellant, it is stated that at the time of accident, the deceased was working as a Mason and he was earning a sum of Rs.650/-per day. The tribunal ought to have fixed monthly income of the deceased atleast, as Rs.8,000/-per month.

7. On the side of the respondent, it is stated that the tribunal has fixed monthly income as Rs.7,000/- which is excessive. As per ***Pranay Sethi*** case, monthly income of the deceased ought to be reduced to Rs.6,500/-.

8. Considering the nature of work said to have been done by the deceased and the cost of living that was prevailing at the relevant period, this Court has fixed the monthly income of the deceased as Rs.8,000/-.



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9. On the side of the appellant, it is stated that, considering the age of the deceased 25% future prospectus, to be added. After adding 25% towards future prospectus the income of the deceased is calculated as Rs. 10,000/-per month.

10. On the side of the respondent, it is stated that the claimant is only the legal representative of the deceased and 50% ought to have been deducted for the personal expenses of the deceased.

11. Since the deceased was not a bachelor and the claimant is his wife, Since there is only one claimant, deduction of 50% is reasonable. After deducted 50% towards personal expenses of the deceased, the deceased might have contributed Rs.5,000/-per month. For the age of the deceased, multiplier 13 is applicable. Hence, a sum of Rs.7,80,000/-is awarded under the head of loss of income.

12. On the side of the appellant, it is stated that the compensation on the heads of loss of consortium, loss of estate and loss of funeral expenses are to be enhanced. As per the dictum of the Hon'ble Supreme Court reported



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in ***Pranay Sethi*** case the claimant is entitled to Rs.70,000/-towards conventional charges.

13. Hence, under the head of loss of income and conventional charges, totally, a sum of Rs.8,50,000/- is awarded, as compensation to the claimant.

14. On the side of the appellant, it is stated that the rate of interest is to be enhanced to 9%. The tribunal has to fix the interest as 7.5% interest, which is reasonable one.

15. Accordingly, the Civil Miscellaneous Appeal is allowed. No costs.

(i) The orders passed by the Tribunal is modified and the award amount is enhanced from Rs.7,32,000/- to Rs.8,50,000/-.

(ii) The 2nd respondent/insurance company is directed to deposit a sum of Rs.8,50,000/-(less the amount if already deposited) as compensation together with interest at the rate of 7.5% per annum, from the date of claim petition, till the date of



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deposit and with cost to the credit of M.C.O.P.No.600 of 2013,
on the file of the Motor Accident Claims Tribunal/Principal
District Judge, Karur, within a period of eight weeks from the
date of receipt of a copy of this order.

(iii) On such deposit being made, the claimant is at liberty
to withdraw the compensation, after following the due process
of law, less any amount already received by her. The claimant
is not entitled for interest for the default period, if there is any.

21.03.2023

Index: Yes / No
Internet : Yes / No

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To

- 1.The Motor Accident Claims Tribunal/
Principal District Judge,
Karur.
- 2.The Record Keeper,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.THARANI, J.

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**Judgment made in
C.M.A(MD)No.1159 of 2017**

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