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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.520 of 2013

1. Malar

2. K.Pitchai

3. Alagammal

... Appellants

Vs.

1. Vijaya

2. The Branch Manager,
National Insurance Compay Limited,
33, Prominede Road,
Contonment, Trichy.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the award amount of Rs.2,00,000/-payable by the 2nd respondent by modifying the award made in Judgment and against the Judgment and Decree dated 24.08.2016 made in M.C.O.P.No.319 of 2007 on the file of the Motor Accident Claims Tribunal/Principal District Court, Pudukottai.

For Appellant : M/s.P.Ganapathi Subramanian

For 2nd Respondent : Mr.D.Sivaraman



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JUDGEMENT

The claimants have preferred this Civil Miscellaneous Appeal to enhance the award amount passed by the Tribunal.

2. It is a case of fatal. The deceased Selvaraj was working as Driver in “Bore Well” vehicle. After finishing his work, he was sleeping nearby, however the driver of the Bore Well Vehicle without noticing the deceased was sleeping run over and the deceased died on the spot.

3. The contention of the claimants is that the tribunal had failed to add future prospectus. Since the deceased is entitled to the multiplier 18, then future prospectus ought to be 40%, after deducting 1/3 the deceased he would be entitled to more salary. Therefore, this Court is inclined to interfere with the loss of income.

Monthly income is	Rs.2,100/-
ADD 40% future prospectus	Rs.2,100 + 840
	Rs.2,940/-

Multiplier 18 is to be applied and 1/3 personal expenses is to be deduced.
Therefore, Loss of income is $\text{Rs.}2,940 \times \frac{2}{3} \times 12 \times 18 = \text{Rs.}4,23,360/-$.



4. As far as the loss of love and affection is concerned there are three claimants, therefore the claimants are entitled to a sum of Rs.1,20,000/- (3 x Rs.40,000). As far as the loss of estate and funeral expenses are concerned, this Court is inclined to grant a sum of Rs.15,000/-for loss of estate and Rs. 15,000/-for loss of funeral expenses. This Court has enhanced the compensation to Rs.5,73,360/- from the total compensation of Rs.3,14,406/- granted by the Tribunal.

5. The Learned Counsel appearing for the Insurance Company submitted that the lorry driver was not having valid driving license at the time of accident, the Tribunal has wrongly fixed liability on the Insurance company. It is a settled preposition of law that, at the time of accident if the driver is not holding valid driving license, then Pay and Recover order can be passed.

6. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The Insurance Company is directed to deposit the entire compensation of Rs.5,73,360/- as compensation, with 7.5% interest along with Costs within a period of Eight (8) weeks from the date of receipt of a copy of the order, less the amount if already deposited. After depositing the compensation, the Insurance Company is entitled to recover the same from the owner of the



vehicle. On such deposit being made, the claimants are entitled to withdraw their share as apportioned by the Tribunal. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee. No Costs.

19.06.2024

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

1. The Motor Accident Claims Tribunal/
Principal District Court,
Pudukottai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Judgment made in
C.M.A(MD)No.520 of 2013**

19.06.2024