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CMA.(MD)No.430 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17/04/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

CMA (MD) No. 430 of 2021

and

CMP (MD) No. 3892 of 2021

M/s.Cholamandalam MS General
Insurance Company Limited,
rep. by its Manager,
No.5, Annai Plaza, 1st Floor,
Kovai Road, Karur West,
Opposite AKC Petrol Bunk,
Karur.

: Appellant/2nd Respondent

Vs.

1.Selvi @ Palaniselvi
2.Karthikeyan
3.Vidhya
4.Chellammal

: Respondents 1 to 4/
Petitioners 1 to 4

5.Poovalingam

: 5th Respondent/
1st Respondent

PRAYER:-Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree passed in MCOP No.211 of 2018 on the file of the Motor Accident Claims Tribunal (District Court), Karur, dated 18/06/2020.

For Appellant : Mrs.K.R.Shivashankari

For Respondents : No appearance



CMA.(MD)No.430 of 2021

O R D E R

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This Appeal is file filed seeking an order to set aside to the judgment and decree, dated 18/06/2020 passed in MCOP No.211 of 2018 by the Motor Accident Claims Tribunal (District Court), Karur.

2.The facts in brief:-

On 15/01/2018 at about 12.45 am, the deceased Arumugam along with his family members was returning to his house on the Karuppu Kovil to Veppankudi crematorium mud road which runs north south direction. At that time, the first respondent's vehicle bearing registration No.TN-57-AP-1992 was driven by its driver in a rash and negligent manner, dashed against Arumugam and his daughter Vidhya. On the spot Arumugam died. Vidhya was admitted in the Government Medical Hospital, Karur. Thereafter, she took treatment in Amaravathi Hospital, Karur for one week. At the time of accident, the deceased was working as Junior Assistant in the ESI Hospital, Coimbatore and earning Rs.40,000/- per month.

3.Claiming compensation amount of Rs.50,00,000/-, MCOP No.211 of 2018 is filed. Similarly, the daughter namely Vidhya also filed MCOP No.212 of 2018 claiming compensation amount of Rs.6,00,000 for herself. Both were tried together by the Tribunal.



CMA.(MD)No.430 of 2021

4.It was resisted by the appellant Insurance Company stating that the deceased and his daughter suddenly crossed the road and invited the occurrence. The driver of the offending vehicle did not possess any proper driving licence.

5.Before the tribunal, on the side of the claimants, 2 witnesses were examined and 13 documents marked. On the side of the Insurance Company, 2 witnesses were examined and 5 documents marked.

6.At the conclusion of the enquiry process, the Tribunal fixed the total compensation amount of Rs. 34,73,796/- in respect of MCOP No.211 of 2018 directing the Insurance Company to pay the amount on behalf of the insured.

7.Against which, this civil miscellaneous appeal is preferred.

8.Heard the appellant. There is no representation for the respondents.

9.The learned counsel appearing for the appellant would submit that the Tribunal ought to have calculated



CMA.(MD)No.430 of 2021

the dependency by adopting the split multiplier method, but instead, it adopted multiplier of 11 taking into account the age of the deceased. According to her, the age of the deceased at the time of accident was 54. He was left with 4 years of service. So, the method of calculation is not proper.

10. But this position has been clarified subsequently in number of judgments. Latest one available is in the case of ***R.Valli and others Vs. Tamil Nadu State Transport Corporation Ltd.*** [(2022 (1) TNMAC 289)]. Wherein the following paragraphs are relevant:-

"7. In *Pranay Sethi*, this Court held that the age of the deceased is the basis for applying suitable multiplier and that the compensation is to be determined keeping in view the future prospects. The future prospects were held to 15% in respect of a deceased between the age of 50 to 60 years.

8. Mr. Amit Anand Tiwari, learned Additional Advocate General has referred to certain orders of the High Courts reported as *Uma Shankar & Ors. v. Revathy Vadivel & Ors.*⁵, *Smt. Kamlesh Devi & Ors. v. Sh. Kitab Singh*



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CMA.(MD)No.430 of 2021

& Ors.6 and *Union of India & Ors. v. K.S. Lakshmi Kumar & Ors.7* to support the applicability of split multiplier i.e., multiplier upto the date of retirement and another multiplier after retirement.

9.The judgments referred to by Mr. Tiwari are prior to the enunciation of law by this Court in *Pranay Sethi*. Therefore, such judgments no longer can be said to be good law as suitable multiplier is to be applied keeping in view the age of the deceased in terms of para 59.7 of the judgment in *Pranay Sethi*.

10.A three-Judge Bench in an order reported as *United India Insurance Co. Ltd. v. Satinder Kaur* alia *Satwinder Kaur & Ors.8* has applied the multiplier keeping in view the age of the deceased even if he was a bachelor. The Court held as under:

"48.Another three-judge bench in *Royal Sundaram Alliance Insurance Co. Ltd. v. Mandala Yadagari Goud*, (2019) 5 SCC 554 traced out the law on this issue, and held that the compensation is to be computed based on what the deceased would have contributed to support the dependants. In the case of the death of a married



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CMA.(MD)No.430 of 2021

person, it is an accepted norm that the age of the deceased would be 5 2014 SCC OnLine Mad 846 6 2011 SCC OnLine Del 2843 7 2000 SCC OnLine Kar 406 8 2020 SCC OnLine SC 410 taken into account. Thus, even in the case of a bachelor, the same principle must be applied."

11.Thus, we find that the method of determination of compensation applying two multipliers is clearly erroneous and run counter to the judgment of this Court in Pranay Sethi, affirming the judgment in Sarla Verma. Since the deceased was 54 years of age on the date of incident, therefore, the suitable multiplier would be 11 as per the judgment of this Court in Sarla Verma approved by this Court in Pranay Sethi."

11.In view of the statement of law by the Hon'ble Supreme Court, the contention raised by the appellant cannot be taken into account. So, the multiplier adopted by the Tribunal at '11' requires no interference. So, the compensation amount fixed by the Tribunal is reasonable, no interference is required.

12.In the result, this Civil Miscellaneous Appeal



CMA.(MD)No.430 of 2021

stands **dismissed**. No costs. Consequently, connected
Miscellaneous Petition is closed.

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17/04/2024

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Motor Accident Claims Tribunal/
District Court,
Karur.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.

G.ILANGO VAN, J



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CMA.(MD)No.430 of 2021

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CMA (MD) No. 430 of 2021

17/04/2024