BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.02.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.651 of 2022
and
C.M.P.(MD)Nos.5642 & 8701of 2022

The Branch Manager,
United India Insurance Company Limited,
61/2694 1st Floor, Floor in Indian Bank,
South Main Street, Thanjavur-613 009. ... Appellant

Vs.

1.Sakila Beevi
2.Mohamed Azarudeen
3.Minor.Mohamed Ashik
4.Mumtaj Begam
5.Sulaika Beevi
6.Sridhar ... Respondents

(3rd Minor respondent is represented through his mother / guardian 1st respondent Sakila Beevi)

(R6 set exparte in Tribunal: Notice dispensed with)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the order, dated 06.12.2021, passed in M.C.O.P.No.338 of 2016 on the file of the Motor Accident Claims Tribunal (Principal District Court), Pudukkottai.

For Appellant	: Mr.J.S.Murali
For R1 to R5	: Mr.R.Maheswaran
For R6	: Set Exparte

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JUDGEMENT

This appeal is filed by the Insurance Company against the award passed by the Tribunal.

2. The contention of the Insurance Company is that the deceased Raja was working as a Mason and the accident was occurred in the year 2016. The Insurance Company claims that the respondents/claimants have not produced any documents to prove the income of the deceased. Therefore, the notional income of the deceased ought to be fixed as Rs.8,000/-. But the Tribunal has fixed the notional income as Rs.12,798/- and the same is on the higher side.

3. The learned Counsel for the appellant relied on the decision of the Hon'ble Supreme Court in the case of ***Syed Sadiq vs. Divisional Manager, United India Insurance reported in 2014 1 TNMAC 459 (SC)*** and submitted that the notional income of the deceased ought to be fixed as Rs.6,500/-.

4. It is seen that the Tribunal has taken the notional income as Rs.6,500/- by relying the case of ***Syed Sadiq vs. Divisional Manager, United India Insurance reported in 2014 1 TNMAC 459 (SC)*** and thereafter**,** by applying inflation, Tribunal has come to the conclusion that the notional income of the deceased ought to be fixed as Rs.12,798/-.

5. Therefore, this Court is of the considered opinion that since the respondents/claimants have not produced any documents to prove the income of deceased, it would be just and fair compensation if the amount is reduced and rounded off to Rs.18,00,000/-. Therefore, the compensation awarded by the Tribunal to the tune of Rs.19,82,000/-

(Rupees Nineteen Lakhs Eighty Two Thousand only) is reduced to Rs.18,00,000/- (Rupees Eighteen Lakh only).

6. The Insurance Company shall deposit Rs.18,00,000/- (Rupees Eighteen Lakh only) with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their shares equally with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the shares of the minor child in a nationalized bank until the child attains majority. The first respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimant attain majority, he is permitted to withdraw his shares with accrued interests.

7. With the above said modification, this Civil Miscellaneous Petition is party allowed. Consequently, connected miscellaneous petitions are closed. No cost.

07.02.2024

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

1.MACT (Principal District Court),
Pudukkottai.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

S.SRIMATHY, J.

jbr

JUDGMENT made in
C.M.A(MD)No.651 of 2022

07.02.2024