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C.M.A.(MD)NO.1075 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R.POORNIMA

C.M.A(MD)No.1075 of 2021 AND

C.M.P.(MD)No.10178 of 2021

The Oriental Insurance Company Ltd.,
Rep. by its Divisional Manager,
K.J.R.Complex,
North Veli Street,
Madurai District.

... Appellant /Petitioner

Vs.

1. S.Mathivanan (Died)

2. Syed Ammal Engineering College,
Rep. by its Correspondent,
Lanthai,
Ramnad District.

... 1st Respondent / 2nd Respondent

3. The United India Insurance Company Ltd.,
Rep. by its
The Divisional Manager,
Mangammal Chathiram, Madurai District.

(Respondents 2 and 3 were remained
ex-parte before the Court below) ... 2nd Respondent / 3rd Respondent

4. Thenmozhi

5. Manonmani

6. Sundar Jegan

7. Rajalakshmi

8. Rajammal

(Cause title is accepted vide order dated 08.04.2021
made in C.M.P.(MD)No.3512 of 2021)

... Respondents



Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, to set aside the decree and judgment passed in M.C.O.P.No.476 of 2016 dated 16.11.2018 on the file of the Motor Accidents Claims Tribunal cum Special Sub Judge, Madurai.

For Appellant : Mr.C.Jawahar Ravindran

For R-3 : Mr.I.Robert Chandra Kumar

For R-4 to R-7 : Mr.F.Deepak

* * *

J U D G M E N T

Heard both sides.

2.S.Mathivanan was working as Village Administrative Officer. He was travelling in a car bearing registration No.TN63-C-2153 (TATA Indica car) on 16.04.2015 at about 5.15 pm., in Madurai-Ramnad main road. While so, the bus insured by the appellant coming from the opposite direction dashed against the car causing grievous injuries to Mathivanan. In the resulting accident, the driver of the vehicle, Suresh Kumar died on the spot. In this regard, crime No.80 of 2015 was registered for the offences under Sections 279, 337, 338 and 304A IPC.



Since the claimant Mathivanan had suffered 100% disability, he filed MCOP No.476 of 2016 on the file of the MACT/Special Sub Judge, Madurai. The claimant examined himself as P.W.1. The doctor was examined as P.W.4. Ex.P.1 to Ex.P.39 were marked. On the side of the Insurance Company, no evidence was adduced. After hearing both sides, the Tribunal passed the award on 16.11.2018 awarding a sum of Rs. 62,69,462/- in favour of the claimant. Questioning the same, the insurance company has filed this appeal.

3. The primary ground on which the appeal has been filed is that the Tribunal ought to have adopted split multiplier method.

4. This issue has now been settled by the Hon'ble Supreme Court in the decision reported in **2022 (1) TN MAC 289 (SC) (R.Valli V. Tamil Nadu State Transport Corporation Ltd.)**. The Hon'ble Supreme Court had held that the method of determining compensation by applying split multiplier is erroneous and it renders counter to the earlier Judgment in **Pranay Sethi**. Admittedly, he was a Government servant. Therefore, there is no dispute regarding the salary received by him. We find that the Court below had adopted the correct multiplier.



5.The learned counsel for the insurance company called upon this Court to make 1/3rd deduction towards personal expenses since the claimant is no more. We cannot take cognizance of the argument. The claimant was very much alive during the passing of the award. Death occurred only during the pendency of the appeal.

6.Interference with the impugned order is not warranted. This civil miscellaneous appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (R.POORNIMA, J.)
5th December 2024

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

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To:

The Special Sub Judge,

The Motor Accidents Claims Tribunal, Madurai.



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