



C.M.A(MD)No.94 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2024

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.94 of 2018

1.Amutha

2.Minor Anusuya

3.Minor Gopinath

(Appellants 2&3 represented through the 1st appellant who is their mother, next friend & natural guardian)

4.Indira

... Appellants/Claimants

Vs.

1.Senthiammal

2.ICICI Lombard General Insurance Co. Ltd.,
Represented through its Branch Manager
Loyola Technical Institute,
T.A.A.Road, Gnanaolivupuram,
Madurai, Madurai District.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, against the award and judgment passed in M.C.O.P.No.1098 of 2010 by the Motor Accident Claims Tribunal / IV Additional District Court, Madurai at Madurai, dated 18.09.2013 seeking enhancement of the award.



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For Appellants : Mr.S.Ramesh @ Ramaiah

For R1 : No Appearance

For R2 : Mr.Muthukamatchi

JUDGMENT

The present appeal has been filed by the claimants in M.C.O.P.No. 1098 of 2010 on the file of Motor Accident Claims Tribunal / IV Additional District Court, Madurai seeking enhancement of compensation.

2. The deceased was 35 years old and he was a Police Constable, drawing a salary of Rs.12,463/- per month at the time of accident. At the time of accident, the deceased has crossed 35 years, but has not completed 36 years. But the tribunal at the time of assessing the compensation, has treated his age as 36 years and applied a multiplier of 15. The tribunal has deducted income tax on the total income and thereafter, deducted 1/3rd towards personal expenses. The application of correct multiplier and the procedure adopted by the tribunal for deducting the income tax are under challenge in the present appeal.



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3. The learned counsel appearing for the appellants had relied upon a judgment of the Hon'ble Supreme Court in Sasikala & Others Vs. Kangalakshmana & Another in Civil Appeal No.2836 of 2015, dated 13.03.2015 to contend that only the completed age has to be taken into consideration for fixing the appropriate multiplier. As per the service records, the deceased had completed 35 years and 2 months on the date of the accident. Therefore, applying the judgment of the Hon'ble Supreme Court cited supra, the correct multiplier would be 16 and not 15.

4. The tribunal in Paragraph No.16 of the award has deducted 10% income tax from his annual income of Rs.2,40,516/-. Thereafter, it had deducted 1/3rd towards personal expenses. This mode of calculation is erroneous. In view of the above said facts, the loss of income for the purposes of income tax is assessed as follows:

The relevant year is 2010 when deceased died in the accident

Income Tax exemption for the year 2010 = Rs.1,60,000/-

Taxable Income = Rs.1,60,344 – 1,60,000

= Rs.344

10% Tax = 344x10% = 3.44

Rounded off to Rs.4/-



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Annual Income Tax = Rs.1,60,344 – 4

Annual income before adding

future prospects = Rs.1,60,340/-

Future prospects of 50% added = Rs.1,60,340 + Rs.80,170/-

= Rs.2,40,510/-

1/3rd deduction towards personal

expenses of the deceased = Rs.2,40,510 – Rs.80,170

= Rs.1,60,340/-

Age of the deceased is 35 years

hence, correct multiplier is = 16 years

Loss of income = 1,60,340 x 16

= Rs.25,65,440/-

5. The award of the tribunal is re-assessed as follows:

Loss of income = Rs.25,65,440/-

Loss of consortium (3x40,000) = Rs.1,20,000/-

Loss of estate = Rs. 15,000/-

Funeral expenses = Rs. 15,000/-

Total = Rs.27,15,440/-



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6. The award of the tribunal is enhanced from Rs.23,64,650/- to Rs.27,15,440/-. The award will carry 7.5% from the date of claim petition excluding any default period. The enhanced award amount shall be deposited by the insurance company within a period of eight (8) weeks from the date of receipt of copy of this order. The claimants 2 and 3 have already attained majority. On such deposit, the 1st claimant is entitled to withdraw 50% of the award amount and the 2nd & 3rd claimants are entitled to withdraw 20% of the award amount each and the 4th claimant is entitled to withdraw 10% of the award amount along with accrued interest and costs.

7. This Civil Miscellaneous Appeal is partly allowed. No costs.

02.07.2024

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

1.The Motor Accident Claims Tribunal /
IV Additional District Court, Madurai.

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



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R.VIJAYAKUMAR,J.

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Order made in
C.M.A(MD)No.94 of 2018

02.07.2024