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C.M.A(MD)No.710 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.710 of 2014

and

M.P.(MD).No.1 of 2014

S.Sivanpandi Thevar

... Appellant

Vs.

1.Lakshmi

2.Kalimuthu

3.Reliance General Insurance Company Limited,
Represented by its Branch Manager,
Wannarpettai,
Tirunelveli – 627 003.

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 27.02.2012 made in M.C.O.P.No.269 of 2009 on the file of the Motor Accident Claims Tribunal Authority and Additional District Court, Fast Track Court, No.2, Tirunelveli.

For Appellant : Mr.P.Thigarajan
For R2 : Mr.J.Ashok
for M/s.Jeyapaul Associates
For R3 : Mr.S.Srinivasaraghavan

JUDGMENT

The owner of the vehicle has preferred this Civil Miscellaneous



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2. It is a case of fatal. The contention of the appellant is that the deceased was 80 years old, but the Tribunal has taken the age of the deceased as 55. For this contention, the Learned Counsel appearing for the appellant is relying on the deposition of the wife of the deceased who had stated that she herself is 80 years old. In such circumstances, the deceased age will be over and above 80 years. After perusing the said deposition this Court is coming to the conclusion that the age of the deceased is 80 and the Tribunal has taken the age erroneously and the applicable multiplier for the age of 80 is '5'. Hence, this Court is fixing the multiplier as '5'.

3. The next contention of the appellant is that the accident occurred on 06.12.2008 whereas the deceased died on 22.12.2008, therefore, there is no nexus between the injury and the death, hence the liability cannot be fastened on the appellant. It is stated in the report that only aberrations are there on outer surface of the body. But the report did not state anything regarding the inner injury and the shock the deceased had undergone at the time of accident. Further by taking the age of the deceased this Court is not accepting the contention of the appellant. This Court is modifying the multiplier alone and the compensation granted by the Tribunal under the other heads are confirmed.



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4.The modified award amount granted by this Court is as under:

Monthly income of the deceased	Rs.4,000/-
Annual income (Rs.4,000/- * 12)	Rs.48,000/-
Applying multiplier '5' (Rs.48,000/- * 5)	Rs.2,40,000/-
Deducting 1/3 rd of income for personal expenses	-Rs.80,000/-
After deduction	Rs.1,60,000/-

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Funeral Expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
2.	Loss of consortium for 1 st claimant and loss of love and affection	Rs.25,000/-	Rs.25,000/-	Confirmed
3.	Loss of Income and unexpected loss of estate	Rs.3,25,000/-	Rs.1,60,000/-	Reduced
	Total	Rs.3,60,000/-	Rs.1,95,000/-	Reduced

Thus, the total compensation granted by the Tribunal to the tune of Rs.3,60,000/- is reduced to Rs.1,95,000/- by this Court. The Tribunal has awarded the compensation to the 1st claimant alone. The learned Counsel appearing for the appellant submitted that the first claimant died and she is having a son as her legal heir and the son is already on record as 2nd respondent. A memo is filed to this effect and the same is recorded. Therefore, the compensation granted to be 1st claimant shall be disbursed to the 2nd claimant.

5.The appellant is directed to deposit Rs.1,95,000/- (Rupees One

Lakh Ninety Five Thousand only) with interest at the rate of 8% per annum, less



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the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the 2nd claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.

6. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

21.06.2024

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

Tmg



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To

- 1.Motor Accident Claims Tribunal Authority
and Additional District Court,
Fast Track Court, No.2, Tirunelveli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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