



C.M.A.(MD).No.553 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.553 of 2018

1. Muthammal
2. Nandhini
3. Chellammal

... Appellants/Petitioners

-VS-

1. Rajasekaran
2. United India Insurance Company Limited,
Through its Branch Manager,
No.1, Post Office Road,
Palayamkottai.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 09.06.2016 made in M.C.O.P.No.461 of 2014 on the file of the Motor Accident Claims Tribunal, I Additional District Court, Tirunelveli.

For Appellants : Mr.T.Selvakumaran

For R2 : Mr.C.Jawahar Ravindran

For R1 : No appearance



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J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimants in M.C.O.P.No.461 of 2014, on the file of the Motor Accident Claims Tribunal, I Additional District Court, Tirunelveli, seeking enhancement of compensation.

2. According to the claimants, the deceased was a Bar Attendar in a TASMAC shop and he met with an accident and passed away. The claimants had contended that as a Bar Attendar, he was receiving a monthly salary of Rs.15,000/- per month including all incentives.

3. The Tribunal, after considering the bank pass book of the deceased person which was marked as Ex.P.3, has arrived at a finding that his monthly salary was Rs.2,510/- and he received incentive of Rs.5,000/- two times. The Tribunal has fixed the monthly income of Rs.8,000/- per month and has proceeded to award compensation to a tune of Rs.12,50,120/- (Rupees Twelve Lakhs Fifty Thousand One Hundred and Twenty only). Challenging the said award, the present appeal has been filed.



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4. According to the learned counsel appearing for the appellants, the TASMAC employee was receiving an incentive at the rate of Rs.10,000/- per month and therefore, his monthly income should have been taken at least as Rs.12,510/- (Rupees Twelve Thousand Five Hundred and Ten only). Hence, he prayed for enhancement of the compensation.

5. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company had relied upon the Bank pass book and contended that the incentives have not been paid to the deceased employee regularly every month. This Court had called for the original records from the Tribunal and has perused the Bank Pass Book. It is seen from the Bank Pass Book that the deceased person was receiving a monthly salary of Rs.2,510/- every month. He was also receiving incentive at the rate of Rs.10,000/- as incentive. The said incentive amount was not paid every month regularly. Therefore, it is clear that the deceased person was receiving a sum of Rs.2,510/- + Rs.5,000/- every month as incentive. Totally a sum of Rs.7,510/- was received by the deceased. The Tribunal has taken into consideration the income at the rate of Rs.8,000/- per month, which this Court finds it to be reasonable. However, this Court is inclined to award a further sum of Rs.15,000/- towards loss of



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estate as it was not awarded by the Tribunal.

6. In view of the above said deliberations, the award of the Tribunal is enhanced from Rs.12,50,120/- (Rupees Twelve Lakhs Fifty Thousand One Hundred and Twenty) to Rs.12,65,120/- (Rupees Twelve Lakhs Sixty Five Thousand One Hundred and Twenty only). The Insurance Company is directed to deposit the entire award amount along with accrued interest before the Tribunal within a period of eight weeks from the date of receipt of a copy of this order.

7. In the result, this Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. There shall be no order as to costs.

24.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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1. The Motor Accident Claims Tribunal,
I Additional District Court,
Tirunelveli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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