



C.M.A(MD)No.1505 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A(MD)No.1505 of 2024

M/s.United India Insurance Co., Ltd.,
Rep by its Branch Manager,
Having Office at 24E Trichy Road,
Thuraiyur,
Tiruchirappalli District.

... Appellant/2nd
Respondent

-Vs-

1.Maheswari

...1st Respondent/
1st Petitioner

2.Minor Akash

... 2nd Respondent/2nd
Petitioner

3.Minor Anishka

... 3rd Respondent/3rd
Petitioner

(2nd, 3rd minors guardian by mother
Maheswari 1st respondent/1st Petitioner)

4.Ganesan

... 4th Respondent/4th
Petitioner

5.Kaveri

... 5th Respondent/5th
Petitioner

6.S.Vinayagamoorthy

... 6th Respondent/1st
Respondent



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PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1998, as against the award dated 03.04.2024 passed in MCOP No.103 of 2023 by the Sub-Court, Musiri.

For Appellant : Mr.I.Suthakaran
For R1 to R5 : Mr.T.Vadivelan

J U D G M E N T

The Civil Miscellaneous Appeal has been preferred by the United Insurance Company Ltd.,/second respondent, against the award dated 03.04.2024 passed in MCOP No.103 of 2023 by the Motor Accident Claims Tribunal/Sub-Court, Musiri, on quantum.

2.Heard the arguments of the learned counsel for the appellant and the learned counsel for the respondents No.1 to 5.

3.Upon consideration, the Tribunal passed an award of Rs.27,15,000/- payable by the second respondent(appellant).Towards loss of dependency, a sum of Rs.31,18,500/-, for loss of consortium, a sum of Rs.2,40,000/- and for loss of estate, a sum of Rs.18,000/- and for funeral



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expenses, a sum of Rs.18,000/-. In all, a sum of Rs.33,94,500/-was awarded and 20% contributory negligence was fixed on the deceased and less 20%, the award amount comes to Rs.27,15,600/-.

4.It has come on record through the evidence of P.W.1 that the deceased Krishnamoorthy was a Barber and earning a sum of Rs.1,000/- per day by running a hair saloon. The notional income of the deceased Krishnamoorthy has been fixed at Rs.16,500/- per month by the Tribunal. The claimants are five in numbers. The age of the deceased has been fixed as 39 years. Therefore, as held in ***Sarala Varma and others Vs Delhi Transport Corporation and another***, reported in ***2009(2) TNMAC 1*** the relevant multiplier to be adopted is '15m'. For deduction of personal and living expenses, if the dependents are five in number, $\frac{1}{4}$ has to be deducted.

5.As regards the future prospects, the Hon'ble Supreme Court has standardised the details of the same in ***National Insurance Company Vs Pranay Sethi and others*** reported in ***2013(1)TNMAC 481 SC*** for the



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age group of persons below 40 years, if they are not in permanent job, 40% has to be added while computing the monthly income. The loss of dependency computed by the Tribunal is given hereunder:

$$\text{Rs.16,500/-} + 40\% - \frac{1}{4} \times 12 \times 15 = \text{Rs.31,18,500/-}$$

For loss of consortium, for loss of estate and for funeral expenses, a sum of Rs.2,76,000/- is granted. For non-wearing of helmet and for no driving license, the Tribunal has fixed the contributory negligence at 20% on the deceased. This Court does not find any valid reason to disturb the findings of the Tribunal.

6. Based on the aforesaid observations and discussions, the Civil Miscellaneous Appeal stands dismissed. No costs.

7. The Insurance Company/Appellant is directed to deposit the compensation amount i.e., Rs.27,15,600/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 103 of 2023 on the file of Motor Accidents Claims Tribunal, Sub-Court,



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Musiri, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

8.On such deposit being made, the respondents 1, 4 and 5/claimants 1, 4 and 5 are permitted to withdraw their shares as apportioned by the Tribunal along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. As the second and third respondents/claimants are minors, the Tribunal shall deposit the share of the minor claimants in a Fixed Deposit in any one of the Nationalized Banks, till the minor claimants attains majority. The guardian of the minor claimants is permitted to withdraw the interest accrued thereon once in three months directly from the bank. No costs.

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NCC:Yes/No

Index:Yes/No

Internet::Yes/No



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R. KALAIMATHI,J.

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To

1.The Motor Accident Claims Tribunal/
the Sub-Court,
Musiri.

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