



C.M.A.(MD).Nos.340 and 341 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)Nos.340 and 341 of 2017

C.M.A(MD) No.340 of 2017:

1. Thangamani

2. Manikalai

... Appellants/Petitioners

-VS-

1. The Proprietor,
Sri Lakshmi Agencies,
Annamalaiyar Mills Campus,
Begambur Post,
Dindigul – 2.

2. The Divisional Manager,
United India Insurance Company Limited,
Salai Road,
Dindigul – 1.

... Respondents/
Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.584 of 2010, on the file of the Motor Accident Claims Tribunal, (Fast Track Court), Dindigul, dated 29.08.2011.

For Appellants : Mr.A.Saravanan



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For Respondents : Mr.C.Jawahar Ravindran – for R2
: No appearance – for R1

C.M.A(MD) No.341 of 2017:

1. Nagalakshmi

2. Selvam

... Appellants/Petitioners

-VS-

1. The Proprietor,
Sri Lakshmi Agencies,
Annamalaiyar Mills Campus,
Begambur Post,
Dindigul – 2.

2. The Divisional Manager,
United India Insurance Company Limited,
Salai Road,
Dindigul – 1.

... Respondents/
Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.618 of 2010, on the file of the Motor Accident Claims Tribunal, Fast Track Court, Dindigul, dated 29.08.2011.

For Appellants : Mr.A.Saravanan

For Respondents : Mr.C.Jawahar Ravindran – for R2
: No appearance – for R1



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COMMON J U D G M E N T

The present Civil Miscellaneous Appeals have been filed by the claimants seeking enhancement of compensation.

2. The parents of the deceased persons are the claimants in both the claim petitions. Their respective sons have travelled in a two wheeler as a rider and pillion rider on 09.07.2010. At that time, a Van belonging to the first respondent and insured with the second respondent came from the opposite direction in a rash and negligent manner and dashed against the two wheeler. In the said accident, both the rider as well as the pillion rider had passed away. Both of them were final year students in B.Sc (Mathamatics). The claimants have sought for a compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) in each of the claim petitions.

3. The Insurance Company has filed a counter contending that the accident has taken place only due to the rash and negligent driving on the part of the rider of the two wheeler. That apart, they have further contended that four persons have travelled in the two wheeler and therefore, they have also



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contributed to the accident. They have also contended that the rider of the two wheeler did not have a valid driving license on the date of accident.

4. The Tribunal, after considering the oral and documentary evidence, has arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the Van driver. The Tribunal has further found that there is no evidence to the effect that the accident has taken place only due to the fact that four persons have travelled in the two wheeler. On the said finding, the Tribunal has rejected the plea of contributory negligence raised by the Insurance Company. The Tribunal has taken the age of the parents of the deceased person for fixing the multiplier and thereafter, proceeded to award a compensation to a tune of Rs.3,00,000/- (Rupees Three Lakhs only) to the claimants in each of the claim petitions. Challenging the same, the present appeals have been filed by the claimants.

5. According to the learned counsel appearing for the appellants/ claimants, the Tribunal has erroneously relied upon the age of the claimants for deciding the multiplier and they ought to have considered the age of the deceased persons for fixing the correct multiplier. Further, relying upon the judgment of the Hon'ble Supreme Court reported in **2014 (2) TN MAC 6 (SC)**



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(V.Mekala Vs.M.Malathi and another) he contended that the Hon'ble Supreme Court was pleased to fix a sum of Rs.10,000/- as notional income for a 16 years old, 11th standard student. In the present case, the deceased are final year B.Sc.(Mathmatics) students. The learned counsel for the appellants has further relied upon the judgment of the Hon'ble Supreme Court reported in **2023 ACJ 100 (S.Vasanthi and another Vs.M/s.Adhiparasakthi Engineering College and another)** to impress upon the Court that for the final year MBA student, the notional income was fixed at Rs.30,000/- for the accident that has taken place in the year 2010. Hence, he prayed for fixing the notional income of Rs.30,000/- per month. He has further contended that the Tribunal has not properly awarded any amount under the conventional heads. Hence, he prayed for allowing these appeals.

6. Per contra, the learned counsel appearing for the second respondent/ Insurance Company has contended that at the time of accident four persons have travelled in the two wheeler and therefore, they have contributed to the accident. In such circumstances, the Tribunal was not right in fixing the contributory negligence on the part of the deceased persons also. He further contended that the judgment of the Hon'ble Supreme Court relied upon by the learned counsel appearing for the claimants in **2023 ACJ 100 (S.Vasanthi**



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and another Vs. M/s.Adhiparasakthi Engineering College and another) is the case of Engineering Graduate who was pursuing MBA. Therefore, the notional income fixed by the Hon'ble Supreme Court in the said case cannot be relied upon for this case. He further contended that the deceased persons being Arts College students, the notional income cannot exceed Rs.7,500/- per month. Hence, he prayed for modifying the award of the Tribunal by passing appropriate orders in the above said extent.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. It is an admitted fact that the deceased persons were pursuing final year B.Sc., (Mathamatics) course in an Arts College on the date of accident. The Hon'ble Supreme Court has fixed the notional income for a 16 years old 11th standard student at Rs.10,000/- (Rupees Ten Thousand only) in the judgment of the Hon'ble Supreme Court reported in **2014 (2) TN MAC 6 (SC) (V.Mekala Vs.M.Malathi and another)**. This Court is inclined to follow the said judgment and proceeds to fix the notional monthly income at Rs.10,000/- (Rupees Ten Thousand only) per month. Considering the age of the petitioners, it would be appropriate to add 40% of income towards future



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prospects. The deceased person being bachelors 50% to be deducted towards personal expenses.

9. In view of the above said deliberations, the award of the Tribunal is reassessed as follows:

The notional monthly income of the deceased is Rs.10,000/-

40% towards future prospectus is Rs.4,000/-

Total notional income comes to Rs.14,000/-. After deducting 50% amounts towards personal expenses the monthly income is fixed at Rs.7,000/-.

Loss of income Rs.7000x12x18	: Rs.15,12,000/-
Funeral expenses	: Rs. 15,000/-
Loss of Estate	: Rs. 15,000/-
Loss of love and affection(40,000x2)	: Rs. 80,000/-
Transport Expenses	: <u>Rs. 10,000/-</u>
Total	: Rs.16,32,000/-

10. The claimants in each of the appeal will be entitled to receive a sum of Rs.16,32,000/- (Rupees Sixteen Lakhs and Thirty Two Thousand only).



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The claimants in each petition are entitled to share the compensation amount equally. The award was passed by the Tribunal on 29.08.2011 and the claimants have chosen to file the present appeals only on 02.01.2017, relying upon the printed copy judgment of the award. Therefore, this Court is inclined to exclude the period between 01.09.2011 to 31.12.2016 for calculating interest. The award amount shall carry interest at the rate of 7.5% per annum from the date of claim petition, excluding the above said period. The second respondent/ Insurance Company shall deposit the award amount within a period of twelve weeks from the date of receipt of the copy of this order. On such deposit being made, the claimants are entitled to withdraw the amount in both the appeals.

11. With the above said terms, these Civil Miscellaneous Appeals stand disposed of. There shall be no order as to costs.

16.07.2024

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

1. The Motor Accident Claims Tribunal,
Fast Track Court,
Dindigul,
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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