



C.M.A.(MD).No.535 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.535 of 2017

and

C.M.P(MD) No.5736 of 2017

M/s. The Oriental Insurance Company Limited,
III Floor, 6 A,
West Veli Street,
Madurai – 1,
Represented through its,
Divisional Manager,
Madurai.

... Appellant/2nd Respondent

-vs-

1. A.Sivaramakrishnan (died)

2. S.Gomathi

3. S.Lakshminarasimhan

...Respondents 1 to 3/
Petitioners 1 to 3

4. R.Navamani
(Respondent No.4 given up)

... 4th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the judgment and decree passed in M.C.O.P.No. 958 of 2009, dated 15.04.2016, on the file of the Motor Accident Claims Tribunal cum District and Sessions Judge, Communal Clash Cases Court, Madurai.



WEB COPY



C.M.A.(MD).No.535 of 2017

For Appellant : Mr.C.Jawahar Ravindran

For R1 : died

For R2 : dismissed for default

For R3 : Mr.Rajamani

For R4 : No appearance

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the Insurance Company, challenging the award passed in M.C.O.P.No.958 of 2009 on the file of the Motor Accident Claims Tribunal cum District and Sessions Judge, Communal Clash Cases Court, Madurai, primarily, on the ground of quantum.

2. Pending appeal, the first claimant who is the husband of the deceased had passed away on 18.11.2017 and the Memo has been filed on 15.11.2019 to the said effect. His legal heirs namely, his daughter and son are already on record. The said Memo is recorded.

3. The claimants have alleged that the deceased was working as a P.G.Assistant Teacher and he was aged about 58 years and drawing a Pre-revised salary of Rs.27,926/- per month on the date of accident.



C.M.A.(MD).No.535 of 2017

WEB COPY

4 . The Tribunal, after considering the documents on record, has fixed the multiplier at “9”. However, the Tribunal has not followed the split multiplier meant for the service period and post retirement period. Challenging the non-fixation of split multiplier, the present appeal has been filed by the Insurance Company.

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

6. The judgment of the Hon'ble Supreme Court reported in **2022 (5) SCC 107 (R.Valli Vs. Tamil Nadu State Transport Corporation Limited)** has clearly held that applying two multipliers is erroneous and run counter to the judgment of the Hon'ble Supreme Court reported in **2017 (16) SCC 680 (Insurance Company Limited Vs. Pranay Sethi and others)**. Therefore, the Tribunal has rightly followed the single multiplier method and proceeded to award a compensation amount of Rs.20,40,636/- (Rupees Twenty Lakhs Forty Thousand Six Hundred and Thirty Six only). In such circumstances, there are no merits in this Civil Miscellaneous Appeal.



C.M.A.(MD).No.535 of 2017

WEB COPY

7. Accordingly, this Civil Miscellaneous Appeal stands dismissed. The second respondent in the claim petition namely, appellant/ Insurance Company is directed to deposit the award amount along with interest at the rate of 7.5 % per annum, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any, already deposited. On such deposit being made, the claimants are entitled to withdraw the same as per the proportion laid down by the Tribunal. Since the first claimant has passed away, his share amount shall be shared by the claimants 2 and 3 equally. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

20.06.2024

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



WEB COPY



C.M.A.(MD).No.535 of 2017

To

1. The District and Sessions Judge/
Communal Clash Cases Court,
Motor Accident Claims Tribunal
Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD).No.535 of 2017

R.VIJAYAKUMAR,J.

ebsi

C.M.A(MD)No.535 of 2017

20.06.2024