



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2015

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THE HONOURABLE MR.JUSTICE P.DEVADASS

C.M.A.No.626 of 2004

and C.M.P.No.3240 of 2004

1.Yovel
2.Chellathankam .. Appellants/Petitioners

Vs.

1.The Branch Manager,
South India Corporation Ltd.,
No.23, Periara Street,
Tuticorin, Chidambaranar District.
2.The Branch Manager,
Oriental Insurance Co. Ltd.,
Tuticorin.
3.S.Chellappan
4.The Branch Manager,
National Insurance Co. Ltd.,
Nagercoil,
Kanyakumari District. .. Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 13.08.2003 made in M.A.C.T.O.P.No.77 of 1996 on the file of the Motor Accident Claims Tribunal at Padmanabapuram.

For Appellant : Mr.A.Anand Raj

For 2nd Respondent : Mr.C.Jawahar Ravindran

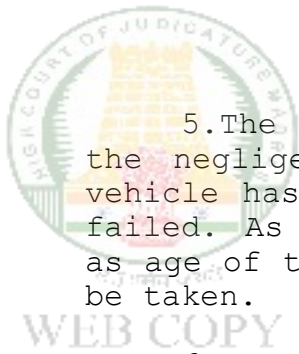
JUDGMENT

1.The parents of deceased have directed this Civil Miscellaneous appeal as against the dismissal of their claim petition.

2.Heard the learned counsel for the petitioners and the learned counsel for the second respondent.

3.The deceased who is the son of the claimants had lost his life in a road accident. The Tribunal appreciating the evidence answered the negligence issue as against the deceased and ultimately allowed the vehicle owner and the insurance company to go scot-free.

4.Aggrieved, this appeal has been directed by the disappointed
<https://hcservices.courts.gov.in/hcservices>



5. The learned counsel for the claimants contended that by evidence the negligence having been on the part of the driver of the insured vehicle has been established. In this regard, the Tribunal has miserably failed. As regards quantification of the damages, relevant aspects such as age of the deceased, proper multiplier and relevant income required to be taken.

6. On the other hand, the learned counsel for the Insurance Company would submit that the Tribunal has referred to the evidence and thus dismissed the petition.

7. I have considered the rival submissions and perused the evidence available on record.

8. It is not in dispute that in the road accident, son of the claimants had lost his life. It is pertinent to note that the evidence adduced would show that at the time of the accident on the Highways two vehicles were moving one after the other. The deceased came as a cleaner in the third respondent's vehicle just before the said vehicle the vehicle owned by the first respondent, which has been insured with the second respondent was proceeding. The evidence on record would show that at about that time the driver of the 1st respondent's vehicle suddenly applies of the brake that had its impact on the following 3rd respondent's vehicle and because of the rash and negligence of the 1st respondent's vehicle, the accident has taken place and the deceased died due to the injuries. The F.I.R. Has been registered on the said respondent. There is no negative evidence either from the said driver or the insurance company. In re-appreciating the evidence adduced, we fasten the negligence on the driver of the first respondent.

9. Now, we will quantify the compensation. The deceased died a bachelor. Then, he was 24 years old. His father was 65 years old, while mother was 55 years. In the facts and circumstances, we take the age of his mother. The appropriate multiplier is '11'. It was pleaded in the petition as well as in the evidence that the deceased was a cleaner. We take him as cleaner. Rs.1,500/- per month has been stated to be his monthly income. It is pertinent to note that the accident took place in the year 1996. We take his income at Rs.1,200/-. As he died as bachelor 50% is deducted towards his pleasure and other expenses. Therefore, his monthly contribution should be taken as Rs.600/-. Thus, the loss of income comes to $\text{Rs.600/-} \times 11 \times 12 = \text{Rs.79,200/-}$.

10. Towards loss of love and affection, damages to clothes, funeral expenses and transportation, we award compensation. Towards love and affection Rs.10,000/- each ($\text{Rs.10,000/-} \times 2$), towards damage to clothes Rs.500/-, towards funeral expenses Rs.7,000/- and towards transportation charges Rs.5,000/- are awarded.

11. Now, the compensation is arrived at as under:

(i) For loss of income	- Rs. 79,200.00
(ii) For loss of love and affection	- Rs. 20,000.00
(iii) For damage to clothes	- Rs. 500.00
(iv) For Funeral Expenses	- Rs. 7,000.00
(iii) For Transportation charges	- Rs. 5,000.00

Total - Rs.1,11,700.00

**P.DEVADASS, J.**

Sj

12. In the result, the Civil Miscellaneous Appeal is allowed. The award of the Tribunal is set aside. The claimants are awarded Rs.1,11,700/- (Rupees One Lakh Eleven Thousand and Seven Hundred only) with 7.5% interest p.a. from the date of filing the claim petition till deposit and costs as against respondents 1 and 2. The said amount shall be paid within two months from the date of receipt of a copy of this Judgment. On such deposit, the claimants are permitted to withdraw the entire amount equally. No costs. Consequently, the connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

sj

To

The Motor Accident Claims Tribunal,
Padmanabhapuram.

2. The Section Officer, V.R.Section,
Madurai Bench of Madras High court, Madurai.

GJM 26.8.15-2P-3C

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