



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2016

Coram:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.507 of 2016
and
C.M.P(MD)No.6338 of 2016

M/s.The Oriental Insurance Company Limited,
Rep. By its Branch Manager,
73/B-1, Salai Road,
Lakshmi Complex,
Thillai Nagar,
Trichy - 620 018.

.. Appellant/2nd Respondent

-Vs-

1.S.Jothimeenal
2.Minor Vinothini
3.Minor Vinothkumar

.. Respondents 1 to 3/Petitioners 1 to 3

4.K.Abdul Kuthoos .. 4th Respondent/1st Respondent

(RR 2 & 3 are rep. By their mother/
natural guardian, first respondent herein)

(R - 4 remained ex-parte before the
lower Court)

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 24.06.2015 made in M.C.O.P.No.647 of 2013 on the file of the Motor Accident Claims Tribunal cum Special District Judge, Tiruchirappalli.

For Appellant : Mr.K.Bhaskaran
For RR 1 to 3 : Mr.N.Sudhagar Nagaraj

JUDGMENT

The Civil Miscellaneous Appeal has been preferred against the Judgment and Decree, dated 24.06.2015 made in M.C.O.P.No.647 of 2013 by the Motor Accident Claims Tribunal cum Special District Judge, Tiruchirappalli.

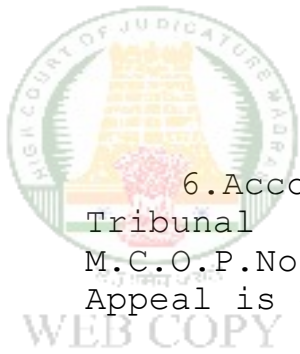


2.The accident took place on 24.09.2012 at about 05.15 p.m., in Trichy-Chennai Bye Pass Road, Trichy. The death occurred instantly and the heirs of the deceased filed the claim petition in M.C.O.P.No.647 of 2013 before the Motor Accidents Claims Tribunal cum Special District Judge, Tiruchirappalli and the Tribunal awarded Rs.8,25,948/- towards total compensation.

3.The present appeal is filed by the appellant/Insurance Company solely on the ground that they have produced the sketch drawn in respect of the accident place and the sketch produced by the appellant/Insurance Company was not considered by the Tribunal and as per the sketch, the deceased was crossing the road negligently and therefore, the contributory negligence is to be fixed on the deceased person and further contended that the sketch and the nature of the accident was not considered by the Tribunal while awarding compensation and therefore, the award amount is excessive and the same has to be reduced.

4.The learned counsel appearing for the respondents 1 to 3/claimants 1 to 3 contended that the award amount itself is less than the established principles and the Tribunal ought to have considered various other aspects while awarding compensation. But the respondents 1 to 3/claimants 1 to 3 has not preferred any appeal for enhancement of compensation and this Court is not inclined to consider all those grounds raised by the learned counsel for the respondents 1 to 3/claimants 1 to 3 in respect of enhancement of compensation at this point of time. So also, the contributory negligence raised by the learned counsel for the appellant/Insurance Company is also not considered by this Court.

5.Common scenario prevailing in the State, especially in National Highways and there are no barricades or signals properly installed in all the National Highways. The State authorities are also responsible for not installing proper sign boards and required warning signals as per the Act and the Rules. In the absence of such warning signals, boards and barricades, the citizens, without knowing the consequences, crossing the roads frequently and meeting with fatal accidents. It is an unfortunate situation prevailing in this State, and the authorities of the State have to take necessary steps to avoid such fatal accidents, especially in National Highways roads. Under these circumstances, by accepting such kind of contributory negligence as argued by the learned counsel for the appellant, just compensation cannot be denied to the victims since the deceased is aged about 50 years at the time of accident and he died leaving behind his wife and two minor children and an aged mother. Hence, this Court has to consider the plight of the family due to the sudden demise of the sole bread winner of the family and the children are minor and their education and future expenses are also to be taken into account. Such being the situation of the respondents 1 to 3/claimants 1 to 3, this Court is not inclined to accept the contentions raised by the appellant/Insurance Company.



6. Accordingly, the award passed by the Motor Accidents Claims Tribunal cum Special District Judge, Tiruchirappalli in M.C.O.P.No.647 of 2013 is confirmed and the Civil Miscellaneous Appeal is dismissed.

7. The learned counsel for the appellant/Insurance Company represented that the admitted liability of the award amount had been deposited and the appellant/Insurance Company is directed to deposit the balance award amount along with proportionate interest and costs within a period of four weeks from the date of receipt of a copy of this order and thereafter, the first respondent is permitted to withdraw her share, as per the ratio of apportionment made by the Tribunal, with proportionate accrued interest and costs by filing necessary application before the Tribunal. The Tribunal is directed to deposit the share of the minors-second and third respondents in any one of the Nationalised Banks, in a Fixed Deposit scheme, till they attain majority. The first respondent, who is the mother and guardian of the minor claimants, is permitted to withdraw the accrued interest of the minor once in three months directly from the bank, only for the welfare of minors. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal
cum Special District Judge,
Tiruchirappalli.

+1cc to Mr.K.Bhaskaran, Advocate in SR.No.66936

+1cc to Mr.N.Sudhagar Nagaraj, Advocate in SR.No.67161

C.M.A (MD) No.507 of 2016

and

C.M.P (MD) No.6338 of 2016

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ps

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