



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2016

CORAM:

THE HONOURABLE Mr. JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No.700 of 2016

and

C.M.P. (MD) No.7217 of 2016

National Insurance Co.Ltd.,
Rep.by its Assistant Administration Officer,
(Code No.650401)
81-D, Chetti Street,
Thiruchengode.

... Appellant / Respondent No.3
Vs.

1.R.Duraichamy

... Respondent No.1 / Petitioner No.1

2.Arasayee Ammal

... Respondent No.2 / Petitioner No.2

3.N.Anbalagan

... Respondent No.3 / Respondent No.1

4.K.Ravikumar

... Respondent No.4 / Respondent No.2

5.Latha

... Respondent No.5 / Respondent No.4

6.Minor Karthikeyan

(Minor is represented by through

his Mother and Guardian 5th Respondent herein)

... Respondent No.6 / Respondent No.5

Prayer: Civil Miscellaneous Appeal is filed under Section 173 Motor Vehicle Act, 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Fast Track Court, Dindigul, in M.C.O.P.No.851 of 2004 dated 30.10.2010.

For Appellant : Mr.D.Sivaraman

JUDGMENT

Challenging the award passed by the Motor Accident Claims Tribunal, Fast Track Court, Dindigul, in M.C.O.P.No.851 of 2004 the Transport Corporation has preferred this appeal.

2.The brief facts of the case are that on 08.06.2004 the deceased Sakthi Ganesan, was proceeding in a motor cycle from Madurai to Dindigul, when the vehicle was going near Chettiyapatti Seeniammal Thottam, a lorry bearing registration No.TN 32 6199 came in a rash and negligent manner and dashed against the motor cycle. The deceased died on the spot. The legal heirs of the deceased are M.C.O.P.No.851 of 2004 claiming compensation of Rs.3 lakhs.

3.The appellant filed a counter opposing the claim on the ground that the deceased was driving the motor cycle in a rash and



negligent manner, he was not having valid driving licence and the insurer have not be impleaded in the claim petition. So the claim petition has to be dismissed for non joinder of necessary parties.

4. Before the Tribunal, the claimants examined P.W.2 Muneeswaran, who is eye witness to the occurrence. He deposed in support of the case of the claimants. Ex.P.1 is the FIR. Ex.P.4 charge sheet would show that after investigation, the police filed a final report against the driver of the lorry. The Tribunal based on the evidence of P.W.2, Ex.P.1 and Ex.P.4 came to the conclusion that the accident had taken place due to the negligent of the lorry driver.

5. P.W.1 has stated that the deceased was 39 years old and he was an ex serviceman and joined in police service and he is earning Rs.5,000/- per month. Ex.P.8 is the legal heirship certificate would show that the claimants are the legal heirs of the deceased. Ex.P.2 postmortem certificate reveals that the deceased was 39 years old. The Tribunal has assessed the income of the deceased as Rs.5,000/- per month and by applying multiplier of 15, awarded Rs.6,75,000/- towards loss of dependency, after deducting 1/4th towards his personal expenses.

6. The wife and son of the deceased were impleaded as respondents 4 and 5. The Tribunal has awarded Rs.15,000/- to the 4th respondent towards loss of consortium, Rs.15,000/- towards love and affection and Rs.5,000/- towards funeral expenses. The Tribunal has totally awarded Rs.7,10,000/- with 7.5% interest per annum. I am of the view that the award passed by the Tribunal is fair and reasonable and I do not find any merit in this appeal.

7. In the result, the award of the Tribunal is confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant / Insurance company is directed to deposit the entire award amount with accrued interest and costs, within a period of 8 weeks from the date of receipt of a copy of this judgment, less the amount already deposited. On such deposit being made, the claimants are permitted to withdraw the award amount with interest and costs as apportioned by the Tribunal. No costs. Consequently, connected C.M.P. is closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

The Motor Accident Claims Tribunal, Fast Track Court, Dindigul.

+One cc to Mr. D. Sivaraman, Advocate, SR.No.40306

<https://hcservices.mca.gov.in/Service> Section Officer, V.R. Section,

Madurai Bench of Madras High Court, Madurai

nbj

RL/4C/2P/SKS/RR/SARI/14/9/2016

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