



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.976 of 2014

and

CMP(MD)No.1 of 2014

Branch Manager,
The Oriental Insurance Company Ltd.,
73/B1, Lakshmi Complex,
Salai Road,
Thillai Nagar, Trichy-18.

: Appellant/Respondent No.2

Vs

1.Jayalakshmi
2.Kamalapriya
3.Venugopal
4.Karthikeyan
5.M.Mythili

: R1 to R5/Petitioners 1 to 4
: Respondent No.1

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in MCOP No.349 of 2002, dated 31.10.2003 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge), Tirunelveli.

For Appellant : Mr.C.Jawahar Ravindran
For R1 to R4 : Mr.S.Muthukrishnan
For 5th respondent : No appearance

JUDGMENT

Questioning the award passed by the Motor Accidents Claims Tribunal (Special District Court), Tiruchirappalli, in MCOP No.41 of 2013, dated 22.01.2014, the Appellant Insurance Company has preferred this appeal.

2.Facts in nutshell:-

On 26.08.2009, the husband of the first respondent and father of the respondents 2 to 4 died in a motor vehicle accident and they filed a petition claiming compensation of Rs.10,00,000/-. The case of the claimants is that on 26.08.2009, the deceased Rasu was travelling as pillion rider in a Super XL bearing registration No.TN-48-H-1099 from Somarasampetti to Vayalur. At that time, a



Van bearing registration No.TN-57-K-1689 came in a rash and negligent manner, hit the moped. In the impact, the deceased sustained head injury and there was bleeding from his nose. Despite treatment in a hospital at Trichy, he died on the same day.

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3.The claim was opposed by the appellant disputing the manner of the accident and their liability to pay the compensation.

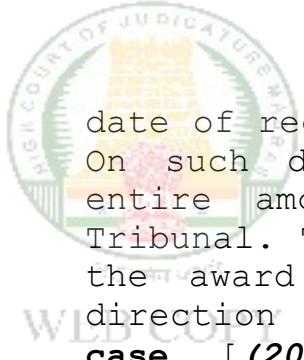
4.The Tribunal, upon consideration of the oral and documentary evidence, found that the driver of the Van who did not have valid driving licence was responsible for the accident. While awarding compensation of Rs.6,61,160/- together with interest @ 7.5% p.a., the Tribunal directed the Insurance company to pay the amount and thereafter recover from the owner of the vehicle.

5.Heard the rival submissions and perused the materials available on record.

6.In order to prove the negligence, the 3rd claimant was examined as PW1 and he deposed that on the date of the accident, he was riding the moped. While so, the offending vehicle came in a high speed and dashed against him. PW2 is the eye witness to the occurrence. Accepting the evidence of PW1 and PW2 and based on Ex.P1 the First Information Report, the Tribunal has rightly come to the conclusion that the driver of the Van was responsible for the accident. The claimants would state that the deceased was 54 year old on the date of the accident. Ex.P2 postmortem certificate corroborates the case of the claimants. The Tribunal fixed the age of the claimant of the decease at 54 year.

7.PW1 has deposed that the deceased was working as a Clerk in Somarasanpettai Primary Cooperative Society and drawing Rs.8,832/- per month. Ex.P3 is the salary certificate. The Tribunal, accepting the evidence of PW1 and Ex.P3, assessed the monthly income of the deceased as Rs.6,624/- and by adopting the split multiplier of 4 for his entire service and 50% of the income, after his retirement, awarded Rs.5,96,150/- towards loss of dependency; Rs.25,000/- to the first claimant for loss of consortium; Rs.3,0000/- to the other claimants towards loss of love and affection and Rs.10,000/- towards funeral expenses. The Tribunal has totally awarded **Rs.6,61,160/-** along with interest @ 7.5% p.a. Admittedly, the claimants are third parties. This court is of the considered view that the award of the Tribunal is fair and reasonable and the direction to the appellant Insurance Company to pay and recover the award amount from the owner of the vehicle is in consonance with the settled position of law.

<https://hcservices.courts.gov.in/hcservices/> result, this appeal is dismissed. The appellant Insurance Company is directed to deposit the entire amount together with interest, within a period of eight weeks from the



date of receipt of a copy of this order, if not already deposited. On such deposit, the claimants are permitted to withdraw the entire amount without filing any formal petition before the Tribunal. The Appellant Insurance Company is at liberty to recover the award amount from the owner of the vehicle as per the direction of the Tribunal, by following the mode in **Nanjappan's case [(2004)13 SCC 224]**. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To,
The Motor Accident Claims Tribunal /
The Special District Judge, Tiruchirappalli.

Copy to:
The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.C.JAWAHAR RAVINDRAN, Advocate, SR No.42291

+1 CC to M/s.S.MUTHUKRISHNAN, Advocate, SR No.42331

Judgment made in

CMA (MD) No.976 of 2014
04.08.2016

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SH/KM:16.11.2016:3P/5C