



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1318 of 2013

The Branch Manager,
M/s.The Oriental Insurance Company Ltd.,
having office at 28, Salem Road,
Coonoor 643 104. .. Appellant/Respondent No.2

-Vs-

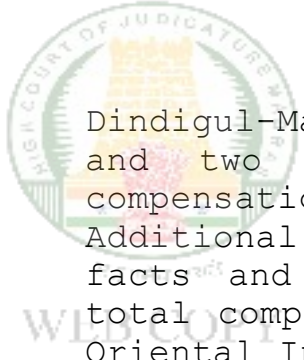
1.Jeya
2.Minor.Uthayanath
3.Minor.Chanthiya ... Respondents 1 to 3/
Petitioners 1 to 3
(Minor Respondents 2 and 3 are
represented through their mother
and natural guardian respondent No.1)
4.R.Rajamani ... 4th Respondent/1st Respondent
5.M.Balakrishnan ... 5th Respondent/3rd Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P.No.1661 of 2005, dated 14.08.2012, on the file of the Motor Accident Claims Tribunal, V Additional District Court, Madurai.

For Appellant : Mr.C.Ramachandran
For Respondents : Mr.R.Baby Jaganath (for R1)
R2 and R3 are minors Rep. by R1

JUDGMENT

The appellant/Oriental Insurance Company Limited has filed the present C.M.A(MD)No.1318 of 2013, challenging the award passed in M.C.O.P.No.1661 of 2005, dated 14.08.2012, on the file of the Motor Accident Claims Tribunal, V Additional District Court, Madurai.



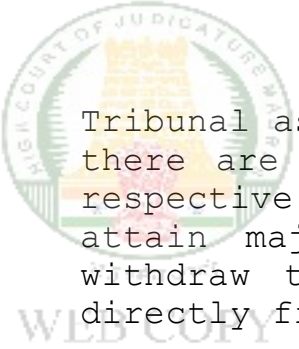
Dindigul-Madurai Main Road. The heirs of the deceased i.e. wife and two minor children have filed an application seeking compensation before the Motor Accident Claims Tribunal, V Additional District Court, Madurai. The Tribunal, considering the facts and circumstances of the case, awarded Rs.6,43,000/- as total compensation. Challenging the award amount, the appellant/Oriental Insurance Company has preferred the present appeal on the ground that the quantum of compensation awarded by the Tribunal is excessive.

3.The learned counsel appearing for the appellant/Insurance Company has contended that the deceased was travelling in the Minidoor Auto and fell down from the Minidoor Auto and therefore, the negligence ought to have been fixed on the side of the deceased and the appellant/Insurance Company should have been exonerated from the liability. But, the contention of the learned counsel appearing for the appellant/Insurance Company is not supported with the findings of the Tribunal and the Tribunal found that there is no negligence on the part of the deceased and accordingly the liability was fixed on the appellant/Insurance Company.

4.The learned counsel appearing for the respondents 1 to 3/claimants also contended that there is no negligence on the part of the deceased and even in that case, the Insurance Company cannot be exonerated from the liability and the findings of the Tribunal is absent with regard to the negligence on the part of the deceased and hence, such a plea has raised before this Court need not be considered.

5.Considering the facts and circumstances of the case, this Court is of the view that it is a case of a fatal accident and the deceased was 35 years old and the claimants are wife and two minor children. Further, the deceased was working as a Mason and he was the only breadwinner of the family and the loss of life created a greater mental agony and hardship to the respondents 1 to 3/claimants. Therefore, the quantum of award granted by the Tribunal cannot be construed as excess and in fact this Court is not inclined to interfere with the quantum of compensation awarded by the Tribunal and accordingly, the award passed in M.C.O.P.No.1661 of 2005, dated 14.08.2012, on the file of the Motor Accident Claims Tribunal, V Additional District Court, Madurai, is confirmed and the Civil Miscellaneous Appeal is dismissed.

6.The appellant/Oriental Insurance Company is directed to deposit the entire award amount with accrued interest within a period of four weeks from the date of receipt of a copy of this order. <https://hcservices.courts.gov.in/hcservices/> already deposited, and the respondents 1 to 3/claimants are permitted to withdraw their share with accrued interest through RTGS by making necessary application before the



Tribunal as per the ratio fixed by the Tribunal. In so far as, if there are any minors, the Tribunal is directed to deposit their respective portion in any one of the Nationalised Bank, till they attain majority. The guardian of the minor is permitted to withdraw the interest of the minor share once in three months directly from the bank. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
V Additional District Judge,
Madurai.

+ 1 CC TO Mr.C.RAMACHANDRAN, ADVOCATE IN SR No. 72394
+ 1 CC TO Mr.R.BABU JAGANATH, ADVOCATE IN SR No. 71177

VSA

TE/SS2-KSM : 23/01/2017 : 3P/4C

C.M.A(MD)No.1318 of 2013
22.11.2016