



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1695 of 2013
and
MP(MD)No.2 of 2013

The Oriental Insurance Company Limited,
No.1858, South Main Street,
Thanjavur.
No.2

: Appellant/Respondent

Vs.

1.Tmt.Mallika
2.Thiruvaruselvi
3.Kala
4.Rajini
5.Jayalakshmi

: R1 to R5/Petitioners 1 to 5

6.Proprietor,
M/s.Auto Riders, International Limited,
426, Anna Salai, Nanthanam,
Chennai.

: 6th Respondent/R1

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree passed in MCOP No.81 of 2010, dated 22.11.2012 on the file of the Motor Accidents Claims Tribunal-cum-Additional Subordinate Judge, Kumbakonam.

For Appellant : Mr.C.Jawaher Ravindran

For Respondents : No appearance

JUDGMENT

Aggrieved over the award passed by the Motor Accidents Claims Tribunal (Additional Subordinate Judge), Kumbakonam, in MCOP No.81 of 2013, dated 22.11.2012, the present appeal has been preferred.



2.MCOP No.81 of 2010 was filed claiming compensation of Rs.10,00,000/- by the legal heirs of the deceased namely Pandiarajan. The case of the claimants is that on 15.10.2009, the deceased was travelling in his bicycle on Thanjavur-Kumbakonam Main Road and when he was nearing Thamarai Mahal Kalyana Mandapam, a Car bearing registration No.TN-09-AH-7735 came in a rash and negligent manner, rammed the bicycle. In the accident, the deceased sustained head injury and he lost his breath, when he was taken to hospital.

3.The appellant filed a counter disputing the age, occupation, monthly income of the deceased and also stated that the accident was happened, while the deceased himself suddenly crossed the road without noticing the vehicle. So, they are not liable to pay the compensation.

4.Before the tribunal, in order to prove their case, on the side of the claimants two witnesses were examined as PW1 and PW2 and marked four documents as Exs.P1 to P4. On the side of the appellant, two witnesses were examined as RW1 and RW2 and Exs.X1 to X3 were marked.

5.Heard the learned counsel appearing for the appellant and perused the materials available on record.

6.PW1 is an eye witness to the accident and he has narrated the manner of the accident in his evidence. PW1 has also produced Ex.P1 the first information report and Ex.P3 report of the Motor Vehicle Inspector. Based on the evidence, the tribunal came to the conclusion that the accident took place due to the rash and negligent driving of the driver of the car.

7.The claimants have stated that the deceased was 50 year old on the date of the accident. The tribunal based on Ex.P2 postmortem certificate fixed the age of the deceased as 60. Following the guidelines in 2009(2)TNMAC 1, assessed the income of the deceased as Rs.4,500/-. After deducting 1/3rd towards his personal expenses held that he was contributed Rs.3,000/- to his family and by applying the multiplier of 9, awarded compensation of Rs.3,24,000/- under the head of loss of earning. In addition, the tribunal has awarded Rs.25,000/- towards loss of love and affection to the claimants, Rs.5,000/- for cremation expenses and Rs.5,000/- for transportation. In total, the tribunal has awarded Rs.3,59,000/- with interest @ 7.5% p.a. This court is of the considered view that the award of the Tribunal is fair and reasonable.

10.In the 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. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal/
(Additional Subordinate Judge),
Kumbakonam.
(With Records)

ER
TE/SKS-RR : 29/12/2016 : 3P/2C

Judgment made in
CMA (MD) No.1695 of 2013
29.07.2016