



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.06.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1831 of 2013

and

M.P.(MD)No.1 of 2013

Divisional Manager,
The Oriental Insurance Company Limited,
Divisional Office-II,
Door No.16, North Veli Street,
Madurai-625 001.

: Appellant/2nd Respondent

Vs.

1.E.Murugeswari
2.E.Mariselvi
3.Muniasamy
4.Veerammal : R1 to R4/Petitioners 1 to 4
5.P.Govindaraj : R5/1st respondent
[5th respondent remained exparte
before the lower court]

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Decree and Judgment made in MCOP No.254 of 2011, dated 11.07.2013 on the file of the Motor Accidents Claims Tribunal-cum-Principal District Judge, Virudhu Nagar District at Srivilliputhur.

For Appellants : Mr.K.Bhaskaran

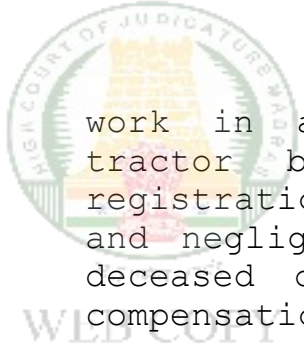
For R1 to R4 : Mr.M.Thirunavukkarasu

For 5th respondent : No appearance

JUDGMENT

This appeal is directed against the award passed by the Motor Accidents Claims Tribunal (Principal District Judge), Srivilliputtur, in MCOP No.254 of 2011, dated 11.07.2013.

<https://hcservices.courtsgov.in/hcservices> 2011 was filed by the wife, minor children and mother of the deceased Irulandi alleging that on 20.05.2011, when the deceased was proceeding in his bicycle, after attending



work in a Mill from Rajapalayam-Srivilliputtur Main road, a tractor bearing No.TN-65-4960 coupled with trailer bearing registration No.TN67-R-7621 came from the same direction in a rash and negligent manner, rammed the bicycle. In that process, the deceased died instantaneously. They filed a petition claiming compensation of Rs.10,00,000/-.

3.The appellant Insurance Company filed a counter disputing the age, income and occupation of the deceased. It is specifically stated that the accident occurred, as the deceased suddenly attempted to cross the road without observing the traffic rules. So, the Insurance company is not liable to pay the compensation.

4.To establish their claim, the first claimant examined herself as PW1 and one another witness was examined as PW2 and marked Exs.P1 to P4. On the other hand, on the side of the Insurance Company, one K.M.Sundar was examined as RW1 and one document was marked as Ex.R1.

5.Heard both sides and perused the materials available on record.

6.PW1 gave evidence in tune with the claim petition and produced Ex.P1 the first information report and Ex.P4 a copy of the charge sheet. They would show that the police have registered a case against the driver of the tractor and also filed a final report against him. The tribunal accepting the evidence produced by the claimants came to the conclusion that the driver of the tractor was responsible for the accident.

7.PW1 deposed that the deceased was earning Rs.9,000/- per month and he was aged 35 year old on the date of the accident. Ex.P2 the postmortem certificate reveals that the deceased was 35 year old. However, the tribunal fixed the age of the deceased as 36 years and assessed the income at Rs.4,000/- per month. Taking into consideration of the age of the deceased, the tribunal has applied multiplier of '16' and after deducting 1/3rd from the income of the deceased towards his personal expenses awarded Rs.5,12,000/- towards loss of dependency; Rs.30,000/- towards loss of love and affection; Rs.15,000/- for loss of consortium and Rs.5,000/- towards funeral expenses. In total, the Tribunal has awarded Rs.5,62,000/- with interest @ 6% p.a. The compensation awarded by the Tribunal is fair and reasonable. This court does not find any merit in this appeal.

8.In fine, the appeal is dismissed and the award of the Tribunal is confirmed. The Insurance company is directed to deposit the entire amount together with the interest and costs of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimants are permitted to withdraw the entire amount as



apportioned by the Tribunal without filing any formal application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

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/True copy/

Sd/-

Assistant Registrar(co)

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal cum
Principal District Judge,
Virudhunagar District at Srivilliputhur

+1cc to Mr.K.Bhaskaran, Advocate Sr.No.33881/16

+1cc to Mr.V.B.Sundhareswar, Advocate Sr.No.34198/16

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Judgment made in
CMA (MD) No.1831 of 2013
29.06.2016