



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CMA(MD)Nos.1176 and 1177 of 2011

and

M.P(MD)Nos.2 and 2 of 2011

CMA(MD)No.1176 of 2011

The Branch Manager,
M/s.Oriental Insurance
Company Limited,
Virudhunagar Madurai Road.

... Appellant / 2nd Respondent

vs.

1)Muniammal
2)Gopalakrishnan
3)Vellaichamy
4)Minor Jothikani
(Minor Respondent No.4 represented
through his mother and
natural guardian 1st respondent)

5)Erammal
6)Rasu Naicker ... Respondents 1 to 6 / Petitioner 1 to 6
7)The Proprietor,
Meenambigai Transport,
Madurai Road,
Aruppukottai. ...7th Respondent / 1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 05.08.2010 made in MCOP.No.24 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Court, Aruppukkottai.

For Appellant : Mr.C.Ramacandran

For R1 to R6 : Mr.G.Marimuthu

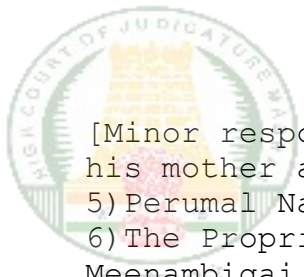
CMA(MD)No.1177 of 2011

The Branch Manager,
M/s.Oriental Insurance
Company Limited,
Virudhunagar Madurai Road.

... Appellant / 2nd Respondent

vs.

1)Kumarakkal
<https://hcservices.ecourts.gov.in/hcservices/>
2)Nimila
3)Kumaresan
4)Lakshmi



[Minor respondents 3 and 4 represented through his mother and natural guardian Tmt.Kumarakkal]

5) Perumal Naicker ... Respondents 1 to 5/Respondents 1to5

6) The Proprietor,
Meenambigai Transport,
Madurai Road,
Aruppukkottai.

...6th Respondent / 1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 05.08.2010 made in MCOP.No.25 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Court, Aruppukkottai.

For Appellant : Mr.C.Ramacandran

For R1 to R5 : Mr.G.Marimuthu

COMMON JUDGMENT

It is the case of an unfortunate fatal accident which took place on 29.07.2008 around 06.30 p.m on Kariapatti to Madurai Main Road near Paraipati. The legal heirs of the deceased persons filed applications before the Motor Accident Claims Tribunal, Sub Court, Aruppukkottai, seeking compensation and the Tribunal, considering the facts and the circumstances of the cases, awarded compensation of Rs.8,40,000/- and Rs.8,40,000/- respectively, with interest at 7.5% per annum. Challenging awards, the appellant insurance company preferred these appeals, on the ground that fixation of monthly income of the deceased in both the cases at Rs.7,500/- is excessive.

2.Learned counsel for the respondents/claimants in both the cases opposed the contentions of the appellant, on the ground that the deceased persons were working as Mason cum Maistry and further, the accident took place in the year 2008 and therefore, the fixation of monthly income at Rs.7,500/- cannot be construed as excessive. Further, the deceased were having more than four dependants and the Tribunal considered all these aspects and fixed the monthly income of the deceased as Rs.7,500/- and awarded compensation, which cannot be described as excessive.

3.In support of his arguments, learned counsel for the respondents/claimants cited a judgement of this Court reported in **2012 (2) TN MAC 802, The Manager, M/s.Iffco Tokio General Insurance Co.Ltd., vs. K.Palaniyammal**, wherein, Rs.9,000/- of monthly income was fixed for Mason and in that case also, accident took place on 10.08.2010.

4.Hence, this Court is not inclined to consider the grounds of appeals raised by the appellant and accordingly, the impugned awards are confirmed.

5.The appellant insurance company is directed to deposit the entire award amount in both the cases, with proportionate accrued interest and costs, to the credit of the claim petitions, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the major respondents/claimants in both the cases, are permitted to withdraw their shares, through RTGS, by filing necessary applications before the Tribunal. The shares of the minor claimant shall be deposited in a Nationalised Bank in Fixed Deposit till they attain majority and on



majority, it is for them to approach the Tribunal for withdrawal their shares.

In the result, these Civil Miscellaneous Appeals are dismissed. No costs. Consequently, M.P(MD)Nos.2 and 2 of 2011 are closed.

Sd/-

Deputy Registrar(Accounts)

WEB COPY

/True Copy/

Sub Assistant Registrar

nbi

To

The Sub Ordinate Judge,
Motor Accident Claims Tribunal,
Aruppukkottai.

+2cc to Mr.G.Marimuthu, Advocate Sr.No. 72481&72482

JAM/02.02.17/MR-UB/3P-4C

CMA(MD)Nos.1176 and 1177 of 2011

24.11.2016