



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1280 of 2011

and

MP(MD)No.1 of 2011

The Divisional Manager,
United India Insurance Company Limited,
Seethalakshmi Complex,
Thirunagar,
Madurai-6

: Appellant/2nd respondent

Vs.

1.Muthupillai
2.T.Karuppiah

: 1st respondent/Petitioner
: 2nd respondent/1st respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree passed in MCOP No.1598 of 2009, dated 19.04.2011 on the file of the Motor Accident Claims Tribunal (Fast Track Court No.III), Madurai.

For Appellant

: Mr.C.Jawahar Ravindran

For 1st respondent

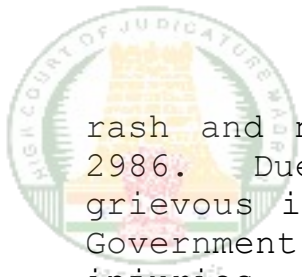
: Mr.A.Liaketh Ali

J U D G M E N T

This appeal is directed against the award of the Motor Accidents Claims Tribunal (Fast Track Court No.3), Madurai, passed in MCOP No.1598 of 2009, dated 19.04.2011.

2.The first respondent T.Muthupillai filed a petition claiming compensation of Rs.5,00,000/- for the death of her son, namely Ranjith @ Ranjith Kumar in a motor vehicle accident occurred on 02.05.2009.

3.According to the claimant, on the date of the accident, the deceased was riding the motor cycle bearing registration No.TN-57-P-2986 along with Jothi Manickam Kanmanikarai road from north to south direction. While so, the driver of the motor cycle bearing registration No.TN-58-U-3960 came from the opposite direction in a



rash and negligent manner, hit against the motor cycle TN-57-P-2986. Due to the impact, the deceased fell down and sustained grievous injuries all over the body. Immediately, he was taken to Government Rajaji Hospital, Madurai. However, he succumbed to the injuries.

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4.The appellant resisted the claim stating that the deceased did not have valid driving licence and he was responsible for the accident. In the counter, the appellant also disputed the age, occupation and income of the deceased and their liability to pay the compensation.

5.Before the Tribunal, on the side of the claimant, two witnesses were examined as PW1 and PW2 and Exs.P1 to P9 were marked. On the side of the Insurance Company, one Gnanasekar was examined RW1 and two documents were marked as Exs.R1 and R2.

6.Upon consideration of the oral and documentary evidence, the Tribunal has awarded compensation of Rs.2,94,000/- together with interest @ 9% p.a. Challenging the said award, the present appeal has been filed.

7.Heard both and perused the materials available on record.

8.The claimant in order to prove her case, examined PW2, who is an eye witness to the accident. He deposed the manner of accident as set out in the claim petition. The claimant has also produced a copy of the First Information Report (Ex.P1) to show that a criminal case was registered against driver of the offending vehicle.

9.Exs.P3 and P4 are the reports of the Motor Vehicle Inspector. Ex.P5 charge sheet would show that after investigation, the police filed a final report against the driver of the offending vehicle. RW1 was examined by the Insurance Company to show that the driver did not have valid driving licence. The Tribunal, based on the evidence of PW2 and Exs.P1 to P5 came to the conclusion that the driver of the offending vehicle caused the accident.

10.PW1 has deposed that her son was a coolie and he was earning Rs.250/- per day and she was 55 year old. The Tribunal based on the age of the claimant, adopted the multiplier of '11'. The claimant has not proved the income. Therefore, the Tribunal assessed the income of the deceased as Rs.4,000/- and deducted 50% towards the living expenses of the deceased and awarded Rs.2,64,000/- towards loss of dependency. In addition, the Tribunal has held that the claimant is entitled for Rs.10,000/- towards medical expenses and other incidental expenses, Rs.10,000/- towards loss of love and affection and Rs.10,000/- towards funeral expenses. The Tribunal has totally awarded Rs.2,94,000/- along with 9% p.a. In my view, the award passed by

the Tribunal is fair and reasonable and it is confirmed.

11. In fine, the appeal is dismissed and the award of the Tribunal is confirmed. The appellant Insurance Company is directed to deposit the entire amount together with the interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimant is permitted to withdraw the entire amount without filing any formal application before the Tribunal. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Additional Sessions Judge,
The Motor Accidents Claims Tribunal,
Fast Track Court No.3,
Madurai.

Copy to:
The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai

+1 cc to M/S.JAWAHAR RAVINDRAN, Advocate SR.No.39239

Judgment made in

CMA (MD) No.1280 of 2011

22.07.2016

SMA/SS-2/17.11.2016:3P/4C