



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2016

CORAM

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1368 of 2011andMP(MD)No.3 of 2011

The Divisional Manager,
The Oriental Insurance Co., Ltd.,
Post Box No.23,
Layola Building 1st Floor,
Dindigul Salai Road,
Dindigul.

: Appellant/2nd respondent

Vs.

1.Mrs.Indirani	: 1 st respondent/Petitioner
2.Savitha	
3.Mr.Sathish @ Sathishkumar	: R2 & R3/P2 and P3
4.Mr.A.Solaimalai	: 4 th respondent/R1

(Name of the 2nd respondent has been amended vide order dated:21.03.2014 in CMA(MD)No.1368/2011.

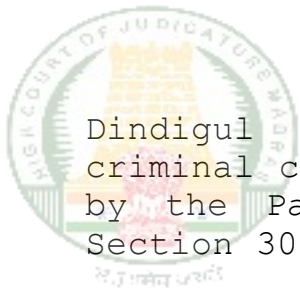
Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award made in MCOP No.940 of 2007, dated 30.11.2010 on the file of the Motor Accident Claims Tribunal-cum-Principal District Judge, Dindigul.

For Appellant	: Mr.C.Jawahar Ravindran
For R1 to R3	: Mr.D.Venkatesh
For 4 th respondent	: Mr.P.Mahendran

JUDGMENT

This appeal is directed against the award of the Motor Accidents Claims Tribunal (Principal District Judge), Dindigul, passed in MCOP No.940 of 2007, dated 30.11.2010.

2.The legal heirs of the deceased Murugesan filed a petition claiming compensation of Rs.10,00,000/-. According to the claimants, the deceased was riding the TVS-50 moped on 15.08.2007 on Batlagundu main road near Kulandaivadivel Gounder Thottam. At the time, a motor cycle bearing registration No.TN-57-W-5879, dashed against the moped. In the impact, the deceased sustained grievous injuries and he was admitted in the City Hospital,



Dindigul and subsequently, he succumbed to the injuries. A criminal case was registered against the driver of the motor cycle by the Pataiveranpatti Police, in Crime No.193 of 2007 under Section 304(A) IPC.

3.The claim was opposed by the appellant disputing the manner of the accident and their liability to pay the compensation.

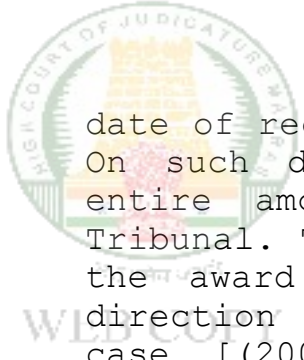
4.The Tribunal, upon consideration of the oral and documentary evidence, found that the driver of the motor cycle, who did not have valid driving licence, was responsible for the accident. While awarding compensation of Rs.3,89,000/- together with interest @ 7.5% p.a., the Tribunal directed the Insurance company to pay the amount and thereafter recover from the owner of the vehicle.

5.Heard the rival submissions and perused the materials available on record.

6.The first claimant examined herself as PW1 and in her evidence, she narrated the manner of the accident. PW1 has also marked Ex.P1 the first information report. The claimants examined PW2, who is an eye witness to the accident. RW1 is an official from the Insurance company. The Tribunal, accepting the evidence of PW1 and PW2 has held that the driver of the motor cycle caused the accident.

7.Ex.P3 would show that the claimants are the legal-heirs of the deceased Murugesan. According to the claimants, the deceased was 45 year old at the time of the accident, which is also supported by Ex.P2 postmortem certificate. PW1 has deposed that the deceased was earning Rs.10,000/- per month from his lands. Ex.P4 is the copy of the patta standing in the name of the deceased. The Tribunal, upon consideration of the oral and documentary evidence held that the deceased was contributing Rs.24,000/- per annum to his family and he died at the age of 48 years. By applying the multiplier of '14', the Tribunal has awarded Rs.3,36,000/- towards loss of dependency; Rs.5,000/- awarded for loss of estate; Rs.2,000/- for funeral expenses and Rs.1,000/- for transportation, Rs.15,000/- to the first claimant for loss of consortium and Rs.30,000/- to the claimants 1 to 3 towards loss of love and affection. The Tribunal has totally awarded Rs.3,89,000/- with interest @ 7.5% p.a. This court is of the considered view that the award of the Tribunal is fair and reasonable and the direction to the appellant Insurance Company to pay and recover the award amount from the owner of the vehicle is in consonance with the settled position of law.

<https://hcservices.courts.gov.in/hcservices> 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. The Appellant Insurance Company is at liberty to recover the award amount from the owner of the vehicle as per the direction of the Tribunal, by following the mode in Nanjappan's case [(2004)13 SCC 224]. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar.

To,
The Motor Accident Claims Tribunal cum
The Principal District Judge, Dindigul.

+1CC to M/S.D.Venkatesh, Advocate, SR.No. 40320

Judgment made in
CMA (MD) No.1368 of 2011
26.07.2016

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MSM/SS3/14.11.2016/3P/3C