



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.1052 of 2014

and

M.P(MD) No.1 of 2014

The Oriental Insurance Company Limited,
Rep. by its Divisional Manager,
Mahalakshmi Manson,
I Floor, 14, 1st Main Road,
Gandhi Nagar, Adaiyar,
Chennai-600 020.

...Appellant /2nd Respondent

Vs.

Alagar, (Died)

1.Rani

2.Sellamani

3.Kalayarasi

4.Murugan

5.Poonusamy

...Respondents 1 to 5/
petitioners

6.Ravichandran

(6th respondent remained exparte
before the lower court)

... 6th Respondent/ 1st Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award made in M.C.O.P.No.610 of 2012, dated 28.03.2014, on the file of the Motor Accidents Claims Tribunal cum Special Sub Judge, Dinidgul.

For Appellants	: Mr.K.Bhaskaran
For R-1 to R-5	: Mr.S.M.Mohan Gandhi
For R6	: Dismissed

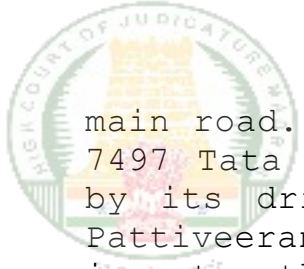
J U D G M E N T

This appeal is directed against the judgment, dated 28.03.2014 passed in M.C.O.P.No.610 of 2012, by the Motor Accidents Claims Tribunal cum Special Sub Judge, Dindigul.

2.The case of the claimants in the petition is briefly as

<https://hcservices.gov.in/hcservices/>

On 27.04.2009, at about 5.30 p.m., the deceased was walking in the extreme leftern side mud part of the Vathalagundi - Sempatti



main road. At that time, a vehicle bearing registration No.TN-07E-7497 Tata Sumo, which belongs to the first respondent was driven by its driver in a rash and negligent manner from Sempatti to Pattiveeranpatti and dashed against the petitioner. Due to the impact, the petitioner sustained fracture on the left hand numerous, left side ribs and crush injuries of spleen and thereby was removed after operation and both hands and both legs were not working. Hence, the deceased claimant filed a claim petition before the Tribunal, claiming compensation for the injuries sustained by him. During the pendency of the claim petition, due to the fractures sustained by him, he died on 22.06.2010 and the legal representatives of the deceased claimant have been impleaded as party to the claim petition.

3.Before the Tribunal, on the side of the petitioner, P.Ws.1 to 5 were examined and Exs.P1 to P8 were marked. On the side of the respondent R.W.1 was examined and Ex.R1-Xerox copy of the Policy was marked.

4.On a careful consideration of the evidence on record, the learned Tribunal has awarded a sum of Rs.6,51,600/- as compensation with interest at the rate of 7.5% under the following heads:

	Rs.
(i)For loss of income	5,34,600/-
(ii) For loss of love and affection	1,10,000/-
(iv) For funeral expenses	7,000/-
	- - - - -
	6,51,600/-
	- - - - -

Challenging this award, the appeal has been filed by the Insurance Company.

5.At the outset, the learned counsel for the appellant / Insurance Company submitted that the learned Judge failed to see that the death of the deceased was not due to injuries sustained by him in the accident. He died for natural cause after a long period from the date of accident. The learned Judge erred in accepting the evidence with regard to nature of injuries and cause of death. Hence, he contended that the finding of the Tribunal has to be set aside.

6.Per contra, the learned counsel for the respondents / claimants has made his submissions by supporting the award passed by the Tribunal. The learned counsel submitted that the respondents have proved the manner in which the accident took place and the death of deceased is only due to injuries sustained by him in the accident and also argued that loss of income of the deceased may be enhanced.



7. Heard the learned counsel for the appellant / Insurance Company and the learned counsel for the respondents / claimants and also perused the materials available on record.

8. The respondents / claimants claimed compensation for the death of Alagar. According to them, the accident occurred only due to rash and negligent driving by driver of the TATA Sumo. As per Ex.P.1-First Information Report and the evidence of the P.W.1, the learned Judge held that the deceased died due to the injuries sustained in the road accident.

9. In the circumstance, the conclusion of the learned Judge that the accident occurred only due to rash and negligent driving by driver of the TATA sumo, cannot be set aside. The learned Judge came to the conclusion only after appreciating all the materials on record in proper perspective. The learned Judge after considering the documents, held that the deceased took treatment in various hospitals for the injuries sustained in the road accident and due to the injuries, he died. Therefore, the learned Judge held that the claimants are entitled for compensation for the death.

10. As far as quantum of compensation is concerned, the learned Judge fixed the income of the deceased as per well settled judicial pronouncements and made necessary deduction and also applied correct multiplier in arriving at compensation payable to the respondents. The compensation awarded is just compensation and not excessive. The appeal is devoid of merits and therefore, liable to be dismissed and is dismissed.

11. In the result, the award dated 28.03.2014 in M.C.O.P.No. 610 of 2012, passed by the learned Special Sub Judge (Motor Accidents Claims Tribunal), Dindigul, is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant / Insurance Company is directed to deposit the entire award amount within a period of 8 weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit being made, the claimants are entitled to withdraw their respective shares as apportioned by the Tribunal by filing a petition before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(C.O)



WEB COPY

1.The Motor Accidents Claims Tribunal cum Special Sub Judge,
Dinidgul.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.S.M.Mohan Gandhi, Advocate, SR.No.71169

+One cc to Mr.K.Bhaskaran, Advocate, SR.No.70790

raj2
RL/5C/4P/GT/SAR1/12/9/2017

C.M.A(MD)No. 1052 of 2014

07.08.2017