



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos.1081 of 2016

and

CMP (MD) No.9745 of 2016

The Branch Manager,
Reliance General Insurance Co. Ltd,
No.10/4/4, Thaka Plaza,
South Bye pass road,
Vannarapettai, Tirunelveli.

... Appellant/Respondent 3

Vs.

1.Muthu

2.Minor Pavithra

(Minor rep. through her father
and next friend, 1st respondent)

... Respondents 1 & 2/ Petitioners

3.Balasubraminan

... Respondent/Respondent 1

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 09.07.2014 made in M.C.O.P.No.157 of 2013 on the file of the Motor Accident Claims Tribunal, (Subordinate Court), Valliyoor.

For Appellant : Mrs.K.R.Shivashankari
for Mr.S.Srinivasa Raghavan

For Respondents : Mr.S.Palani Velyautham

JUDGMENT

Heard the learned counsel for the parties.

2.The insurer of the offending vehicle has filed this appeal questioning the impugned award dated 09.07.2014 made in M.C.O.P.No.157 of 2013 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Valliyoor both on the ground of liability as well as quantum.

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

3.One Sumathi was travelling as a pillion rider on 12.05.2013

at about 06.30 P.M near south Valliyoor junction - Panagudi main road. Due to sudden crossing of a vehicle, the rider of the two wheeler lost balance. In the process, the said Sumathi fell down and suffered injuries and died. The deceased's husband and minor child filed MCOP.No.157 of 2013 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Valliyoor. The Tribunal awarded a sum of Rs.10,31,500/- with interest.

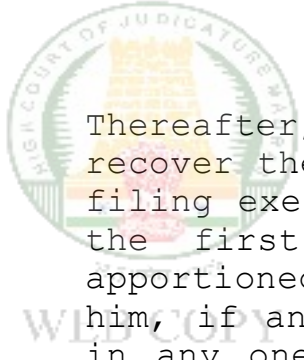
4.Since the injured did not have a valid driving licence, pay and recover principle was awarded. The deceased was aged 35 years. He only a Coolie by avocation. Her monthly income was taken as Rs.4,500/- and instead of adding 40% towards future prospects, 50% was added. That apart, a sum of Rs.1,00,000/- was awarded towards loss of love and affection, besides awarding 50,000/- towards loss of consortium. I am of the view that a sum of Rs.80,000/- can be awarded towards loss of consortium and towards love and affection respectively to the claimants. Therefore, the compensation payable to the claimants will be reduced by Rs.70,000/- straight away. If only 40% towards future prospects instead of 50%, is added, the compensation payable to the claimants will be Rs.9,03,900/- with interest. In all other aspects, the impugned award is confirmed.

5.The compensation payable to the claimants in detail as follows :

Monthly income of the deceased	Rs.4500/-
After adding 40% future prospects	Rs.6300/-
One third deduction	Rs.4200/-
Pecuniary loss to the family	Rs.8,06,400/-
4200x12x16	
For loss of love and affection & for loss of consortium	Rs.80,000/-
For loss of estate	Rs.2500/-
For transportation charges	Rs.5,000/-
For funeral expenses	Rs.10,000/-
Total	Rs.9,03,900/-

5.The award dated 09.07.2014 made in M.C.O.P.No.157 of 2013 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Valliyoor is modified.

6.The appellant insurance company is directed to deposit the sum of Rs.9,03,900/- with interest at the rate of 7.5% per annum, from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any.



Thereafter, the appellant insurance company is permitted to recover the same from the vehicle owner/third respondent herein by filing execution petition before the Tribunal. On such deposit, the first respondent is entitled to withdraw his share as apportioned by the Tribunal, less the amount already withdrawn by him, if any. The share of the minor claimant shall be deposited in any one of the nationalized bank and the first respondent is permitted to withdraw the interest once in three months directly from the bank, till the minor attains majority.

7.This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Motor Accident Claims Tribunal, Valliyoore.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 1 cc TO Mr.S.Srinivasa Raghavan , Advocate in SR No. 90479
+ 1 cc TO Mr.S.Palani Velayutham , Advocate in SR No. 90443

skm

AE/SV MMS/SAR2/13.02.2018/3P/6C

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