



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.164 of 2017
and C.M.P(MD)No.1784 of 2017
and
Cross Objection(MD)No.28 of 2017

The Branch Manager,
M/s.United India Insurance Co. Ltd.,
No.61/2694, South Main Street,
Thanjavur.

: Appellant/2nd Respondent

Vs.

1.Poonkodi
2.Minor.Gunalan
3.Minor.Harish

(Respondents 2 & 3 represented by
their mother and natural guardian
Poonkodi (1st respondent)

: Respondents 1 to 3/Petitioners

4. The Principal,
M/s.Anjalaiammal Mahalingam
Engineering College,
Kovilvenni,
Needamangalam Taluk,
Thiruvarur District.

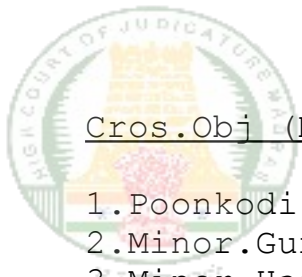
: 4th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under
Section 173 of Motor Vehicles Act against the order passed by the
Motor Accident Claims Tribunal (Special District Court), Thanjavur
in M.C.O.P.No.236 of 2014, dated 21.12.2015.

For Appellant : Mr.N.Dilip Kumar

For R1 to R3 : Mr.K.M.Karunakaran

For R4 : Mr.G.Mohan Kumar



Cros.Obj (MD)No.28 of 2017

- 1.Poonkodi
- 2.Minor.Gunalan
- 3.Minor.Harish

(Respondents 2 & 3 represented by
their mother and natural guardian

Poonkodi (1st respondent) : Cross Objectors/Respondents
1 to 3/Petitioners

-Vs-

1. The Branch Manager,
M/s.United India Insurance Co. Ltd.,
No.61/2694, South Main Street,
Thanjavur. : 1st Respondent/Appellant/
2nd Respondent

2. The Principal,
M/s.Anjalaiammal Mahalingam
Engineering College,
Kovilvenni,
Needamangalam Taluk,
Thiruvarur District. : 2nd Respondent/4th Respondent/
1st Respondent

PRAYER: Civil Cross Objection has been filed under Order 41 Rule 22 of Civil Procedure Code, against the judgment and Decree dated 21.12.2015 made in M.C.O.P.No.236 of 2014 on the file of Motor Accident Claims Tribunal/Special District Court, Thanjavur.

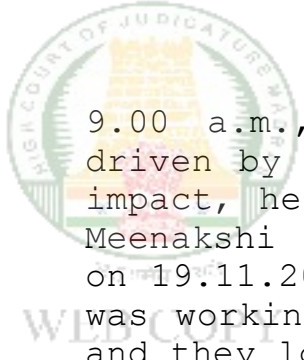
For Cross
Objectors : Mr.K.M.Karunakaran
For R1 : Mr.N.Dilip Kumar
For R4 : Mr.G.Mohan Kumar

COMMON JUDGMENT

[Judgment of this Court was made by **K.KALYANASUNDARAM, J.]**

CMA(MD)No.164 of 2017 has preferred by the Insurance Company challenging the quantum awarded by the Motor Accident Claims Tribunal (Special District Judge), Thanjavur in M.C.O.P.No.236 of 2014, whereas Cross Objection (MD)No.28 of 2017 has been filed by the claimants seeking enhancement of compensation.

2.The respondents 1 to 3 as claimants filed MCOP No.236 of 2014 seeking compensation of Rs.50,00,000/- on the ground that when Raiman the husband of the first claimant and the father of the claimants 2 and 3 was travelling in a bicycle on 08.11.2013 at



9.00 a.m., from East to West direction, the bus TN-50-W-0508 driven by its driver in a high speed, dashed against him. In the impact, he sustained multiple injuries and he was admitted in the Meenakshi Hospital, Thanjavur. Despite better treatment, he died on 19.11.2013. The claimants have further stated that the deceased was working as a Welder and he was earning Rs.34,999/- per month and they lost their only bread winner.

3. In the counter filed by the appellant Insurance Company, they have disputed and denied the averments stated in the claim petition. However, the Tribunal, upon consideration of the evidence adduced by the parties, held that the accident occurred due to the negligence of the driver of the bus and awarded compensation. Aggrieved over the judgment and decree, both the parties have come before this court.

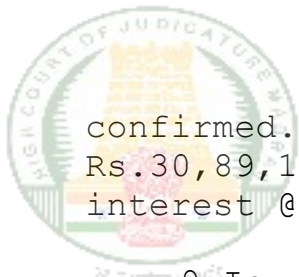
4. Heard both sides and perused the materials available on record.

5. The learned counsel for the appellant Insurance Company submitted that the present appeal has been filed only challenging the quantum and they have not disputed the other findings of the tribunal.

6. With regard to quantum, the first claimant, the wife of the deceased, as PW1 deposed in her evidence that her husband was working in L & T Company and he was earning monthly at Rs.34,999/-. A perusal of Ex.P13 salary certificate reveals that the deceased was paid Rs.27,620/- per month. Based on the evidence, the Tribunal fixed the income at Rs.27,620/- and by adding 30% towards future prospects, calculated the total income at Rs.35,906/- and after deducting 1/3rd towards personal and living expenses, the contribution was taken as Rs.23,937/-. The Tribunal, after deducting 10% towards income tax, arrived at Rs.2,58,520/- towards loss of contribution to the family.

7. From the perusal of the salary certificate, it is clear that the gross salary of the deceased was Rs.27,620/- and after deductions, he was getting Rs.20,240/- per month. So the monthly income is fixed at Rs.20,240/- and after adding 30% towards future prospects and by applying multiplier 13, the income is arrived at Rs.26,312/-. After deducting 1/3rd towards his personal expenses, the loss of dependency is arrived at **Rs.27,36,440/-**.

8. As per the decision in **Pranay Sethi**, this Court awards Rs.40,000/- towards loss of consortium; Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. Taking into consideration the facts of this case, the award of the tribunal at Rs.10,000/- towards loss of love and affection; Rs.10,000/- for transportation and Rs.1,72,760/- towards Medical expenses are



confirmed. In total, the claimants would be entitled for Rs.30,89,160/- (rounded off to **Rs.30,89,000/-** together with interest @ 7.5% p.a.

9. In the result, this Civil Miscellaneous Appeal is partly allowed. The award is reduced to **Rs.30,89,000/-** from Rs.38,78,520/-. The appellant Insurance Company is directed to deposit the modified amount, less the amount already deposited, within a period of eight weeks from the date of receipt of the judgment copy. On such deposit, the first claimant is entitled to Rs.15,89,000/- and the claimants 2 and 3 are each entitled to Rs.7,50,000/-. Insofar as the minor claimants are concerned, their share shall be deposited in any one of the Nationalized Bank in a fixed deposit scheme, till they attain majority. The first claimant, being the mother and guardian of minor claimants, is permitted to withdraw the accrued interest once in three months for the welfare of the minors.

10. In view of the order passed in C.M.A(MD)No.164 of 2017, the Cross Objection (MD)No.28 of 2017 filed by the claimants is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Special District Court,
Motor Accident Claims Tribunal,
Thanjavur.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 cc TO Mr.N.Dilip Kumar , Advocate in SR No. 90965
+ 1 cc TO Mr.K.M.Karunakaran , Advocate in SR No. 90846
+ 1 cc TO Mr.G.Mohan kumar , Advocate in SR No. 90951

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VB/SKN RSK/SAR1/20.03.2018/4P/7C

C.M.A (MD) No.164 of 2017
and

Cros.Obj. (MD) No.28 of 2017
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