



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

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C.M.A(MD) No.317 of 2017
and
C.M.P.(MD).No.3669 of 2017

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National Insurance Company Ltd.,
Through its Branch Manager,
Thoothukudi. ...Appellant/Respondent No.3

vs.

1.Noorjahan ...Respondent No.1/Petitioner No.1
2.Syed Oli ...Respondent No.2/Petitioner No.2
3.Sulaikal Beevi ...Respondent No.3/Petitioner No.3
4.Minor Ibrahim Meeral ...Respondent No.4/Petitioner No.4
(Minor represented though her mother
and natural guradian Noorjahan, the
first respondent herein)

5.Rajesh V.Rayar ...Respondent No.5/Respondent No.1
6.Sampath ...Respondent No.6/Respondent NO.2
7.Kirudhu Oli ...Respondent No.7/Respondent No.4
8.Karthick ...Respondent No.8/Respondent No.5

Appeal is filed under Section 173 of Motor Vehicle Act,
against the judgment and decree dated 08.02.2012 made in
M.C.O.P.No.227 of 2009 on the file of the Motor Accidents Claims
Tribunal, Principal Sub Court, Tenkasi.

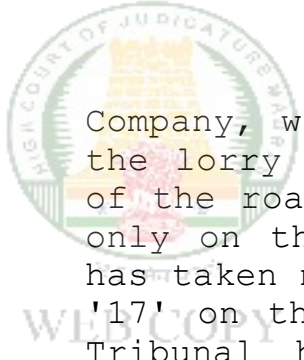
For Appellant
For R1,R3 and R4

:Mr.N.Murugesan
:Mr.D.Selvanayagam

JUDGMENT

The Insurance Company, which suffered an award for
Rs.6,67,000/- for the death of 19 years old boy in the motor
accident took place on 22.02.2009, is the appellant.

2.The factum of the accident and the question of negligence
is not in dispute. The Tribunal has dealt with the question as to
the manner in which the accident taken place and concluded that
the driver of the lorry insured with the appellant Insurance



Company, was solely responsible for the accident. It appears that the lorry had cut across the yellow line, gone on the wrong side of the road and hit the two wheeler. Therefore, the negligence is only on the lorry driver. As regards the quantum, the Tribunal has taken monthly income at Rs.3,000/- and adopted a multiplier of '17' on the basis of the age of the mother of the deceased. The Tribunal has awarded a sum of Rs.6,12,000/- towards loss of earning.

3.Mr.Murugesan, learned counsel appearing for the appellant Insurance Company would contend that the Tribunal has not made any deduction for the personal expense of the deceased. But, the Tribunal has adopted only Rs.3,000/- as against Rs.4,500/- suggested by the Honourable Supreme Court, as monthly income. The Tribunal has not taken into account the future prospects. The deceased being only 19 years old, the Tribunal should have taken into account the future prospects also.

4.Considering all these aspects, I do not think that the award is exorbitant requiring interference in the appeal. Hence, this civil miscellaneous appeal is dismissed. No costs. Consequently, the connected C.M.P is also closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

The Principal Subordinate Judge,
The Motor Accidents Claims Tribunal,
Principal Subordinate Court,
Tenkasi.

+One cc to Mr.N.Murugesan, Advocate, SR.No.53315
+One cc to Mr.D.Selvanayagam, Advocate, SR.No.52698

Ns

RL/4C/2P/MR/8.5.2017

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