



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1368 of 2016

&

CMP (MD) No.1378 of 2016 and

CROS.OBJ. (MD) No.33 of 2017

CMA (MD) No.1368 of 2016 :M/S.National Insurance Co.Ltd,
Mylapore, Chennai-4.... Appellant/2nd respondent**Vs.**

1. B.Chithra

2. Minor Hari Prasath

(Rep.by guardian/mother, 1st respondent)

3. Janakiraman

4. Kasthuri

... Respondents 1 to 4/Petitioners

5. G.Anandan

... 5th Respondent/Respondent No.1

Prayer in C.M.A. (MD) No.1368 of 2016 : This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 07.04.2010 made in M.C.O.P.No.1817 of 2004 on the file of Motor Accident Claims Tribunal (Additional District & Sessions Judge/Fast Track Court No.1), Tiruchirapalli.

For Appellant : Mr.S.Srinivasa Ragavan

For Respondent No.1 : Mr.M.Saravanan

for Mr.Ashok Kumar

For Respondents 3 to 5 - No appearance

CROS.OBJ. (MD) No.33 of 2017:

1. B.Chithra

2. Minor Hari Prasath

Represented by his mother,
the 1st appellant herein.... Cross Objectors/
Respondents 1 & 2

**Vs.**

1. M/S.National Insurance Co. Ltd.,
Mylapore, Chennai-4.

... 1st Respondent/Appellant

2. Janakiraman

3. Kasthuri

... Respondents 2,3/
Respondents 3,4

4.G.Anandan

... 4th Respondent/5th Respondent

Prayer CROS.OBJ.(MD)No.33 of 2017: This Cross Objection is filed Under Order -XLI, Rule-22 of C.P.C, to set aside the award dated 07.04.2010 passed in M.C.O.P.No.1817 of 2004 on the file of Motor Accident Claims Tribunal (Additional District & Sessions Judge/Fast Track Court No.1), Tiruchirapalli, in so far as the disallowed portion of compensation is concerned.

For Cross Objectors	: M.Saravanan for Mr.Ashok Kumar
For Respondent No.1	: Mr.S.Srinivasa Ragavan
For Respondents 2 to 4	: No appearance

JUDGMENT

One Babu Dhanraj an employee in Chennai Port Trust, died in an accident on 09.06.2004. The offending vehicle was insured with the National Insurance Company Limited. The Tribunal awarded a sum of Rs.25,50,600/- as compensation with interest. The insurer has filed this appeal contending that the award amount is excessive. Seeking further enhancement, the claimants have filed CROS.OBJ.(MD) No.33 of 2017.

2.The deceased was working as Lascar in Chennai Port Trust and earning a sum of Rs.15,387/- as gross salary. It is beyond dispute that a sum of Rs.1661.88/- and Rs.2067.50 (O.T SR, O.T DR)/- allowance same will have to be deducted from the gross salary. Therefore, a sum of Rs.11,658/- was the actual salary payable to the deceased. He was aged 36 years at the time of accident. Therefore, multiplier will be 15. He was working as Lascar in Chennai Port Trust and since he was a permanent employee, 50% future prospectus will have to be added. Since there are 4 dependents one-fourth will be deducted towards personal expenses. Applying the relevant formula, the pecuniary loss for the family will be Rs.23,60,700/-. (13115X15X12). A further sum of Rs.70,000/- can be awarded towards conventional damages. Further a sum of Rs.80,000/- can be awarded towards loss of love and affection for the minor son and the parents. Therefore, the compensation payable to the claimants will be Rs.25,10,700/-.

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

3.Accordingly, the compensation awarded by the Tribunal is



reduced from Rs.25,50,600/- to 25,10,700/-.

4.The appellant/National Insurance Company Limited is directed to deposit the award amount of Rs.25,10,700/- with interest at 7.5% per annum and costs, from the date of petition till date of realization, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

5.On such deposit, the claimants/respondents 1,3 and 4 are entitled to withdraw their respective shares as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal. The share of the minor claimant shall be deposited in any one of the nationalised bank and the natural guardian/mother is permitted to withdraw the interest once in three months directly from the bank, till the minor attains majority. The appellant is permitted to withdraw the balance amount, if any.

6.The order dated 07.04.2010 made in M.C.O.P.No.1817 of 2004 on the file of the Motor Accident Claims Tribunal (Additional District & Sessions Judge/Fast Track Court No.1), Tiruchirapalli, is modified. C.M.A.(MD)No.1368 of 2016 is partly allowed. The CROS.OBJ.(MD)No.33 of 2017 stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Additional District & Sessions Judge,
Motor Accident Claims Tribunal,
(The Additional District & Sessions Court/
Fast Track Court No.1, Tiruchirapalli.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.S.SRINIVASA RAGHAVAN, ADVOCATE IN SR No. 92618
+ 1 CC TO Mr.N.C.ASHOK KUMAR, ADVOCATE IN SR No. 92268

SKM

TE/RP/SAR-1 : 09/08/2018 : 3P/6C

C.M.A.(MD)No.1368 of 2016 &
CMP(MD)No.1378 of 2016 and
CROS.OBJ.(MD)No.33 of 2017
11.12.2017