



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2017

CORAM :

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) No. 421 of 2017

and

C.M.P. (MD) No. 4437 of 2017

and

CROS.OBJ. (MD) No. 19 of 2017

In C.M.A. (MD) No. 421 of 2017

M/s.Oriental Insurance Company Limited,
Through its Divisional Officer,
No.16, North Veli Street,
Madurai.

... Appellant

Vs.

1.Mrs.Sathiyammal
2.Mrs.Lakshmi
3.Mrs.Pechiyammal (Died)
4.Mrs.Ariyammal
5.Ramasetthupandian
6.M/s.Thiru Palani Motor Service (Firm),
No.174, Peraiyur Main Road,
Usilampatti,
Madurai District.
(Respondents 5 and 6 given up)

... Respondents

In CROS.OBJ. (MD) No. 19 of 2017

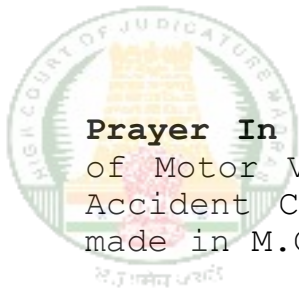
1.Mrs.Sathiyammal
2.Mrs.Lakshmi
3.Mrs.Pechiyammal (Died)
4.Mrs.Ariyammal

... Cross Objectors

Vs.

1.M/s.Oriental Insurance Company Limited,
Through its Divisional Officer,
No.16, North Veli Street,
Madurai.
2.Ramasetthupandian
3.M/s.Thiru Palani Motor Service (Firm),
No.174, Peraiyur Main Road,
Usilampatti,
Madurai District.

... Respondents



Prayer In C.M.A. (MD) No.421 of 2017: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the order of the Motor Accident Claims Tribunal cum VI Additional District Judge, Madurai made in M.C.O.P.No.1248/2015, dated 23.03.2016.

Prayer In CROS.OBJ. (MD) .No.19 of 2017: Appeal filed under Order 41 Rule 22 of CPC 1908 as amended by the ACT 104 of 1976, the cross objectors in C.M.A. (MD) .No.421 of 2017 against M.C.O.P.No.1248/2015, dated 23.03.2016, on the file of the Motor Accident Claims Tribunal cum VI Additional District Judge, Madurai and the memorandum of grounds was served of the 1st respondent/cross objector on 18.06.2017.

In C.M.A. (MD) No.421 of 2017

For Appellant	: Mr.C.Jawahar Ravindran
For Respondents	: Mr.S.Anandhakumar for M/s.S.Hema for R1, R2 and R4 R3-Died R5 & R6-Given up

In CROS.OBJ. (MD) .No.19 of 2017

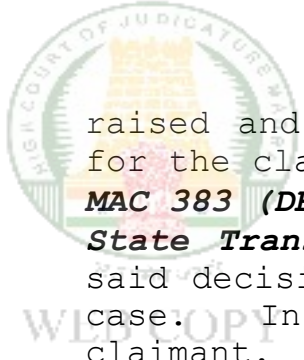
For Cross Objectors	: Mr.S.Anandhakumar for M/s.S.Hema
For Respondent No.1	: Mr.C.Jawahar Ravindran

JUDGMENT

Heard the learned counsel on either side.

2.The Insurance Company has filed this appeal on the ground of quantum. The claimants have also filed Cross Objection seeking enhancement. The deceased Palaniammal travelled in a bus belonging to the 6th respondent herein. The deceased was about to alight at Kattathevanpatti. Before, she could get down from the bus, it suddenly started. As a result, Palaniammal fell down and sustained serious injuries. She later died. As a result, Crime No.33 of 2015 was registered against the driver of the bus. The appellant herein had insured the said vehicle. The Tribunal held that the bus was started even without waiting for the conductor's whistle. Therefore negligence was fixed on the bus driver. Since the appellant is the insurer, liability was fastened on the appellant. The Tribunal awarded a sum of Rs.6,76,500/-.

3.The principal contention urged by the learned counsel appearing for the appellant is that the claimants are the sisters of the deceased. Even a reading of the FIR would show that the deceased was living separately. They cannot be termed as dependants of the deceased. Therefore while the damages under the conventional heads can be awarded, the question of awarding any compensation on the ground of pecuniary loss would actually not arise. Though on the face of it, this contention appears to be attractive, I am not in a position to accept the same. Such contentions had earlier been



raised and rejected by this Court. The learned counsel appearing for the claimants would rely on the decision reported in **2017 (1) TN MAC 383 (DB) Anandha Lakshmi and Ors. And Tamil Nadu State Transport State Transport Corporation (Villupuram Division-I) Limited**. This said decision is applicable to the facts and circumstances of this case. In the said case, the brother of the deceased was the claimant. This Court held that the exclusion of the brother on the ground that he is not a Class I Legal heirs would defeat the very object of the legislation. That apart the tortfeasor would go scot free if a restricted interpretation is adopted. I therefore have no hesitation to reject the submission of the learned counsel appearing for the appellant insurance company.

4. Coming to quantum, it can be seen that the Tribunal had correctly quantified the compensation payable. The deceased was aged 56 years. No income proof was filed. She was a widow. Considering the fact that the claimants were residing separately, no pecuniary loss would arise. That is why, I am not inclined to accept the submission of the learned counsel for the claimants that 10% should be added towards future prospects. The compensation awarded by the Tribunal is entirely just and reasonable. There is absolutely no ground made out to interfere. The award dated 23.03.2016, made in M.C.O.P.No.1248/2015, on the file of the Motor Accident Claims Tribunal cum VI Additional District Judge, Madurai is confirmed.

5. The appellant is directed to deposit the entire compensation amount of Rs.6,76,500/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the respondents 1,2 and 4 and legal heirs of third respondent are entitled to withdraw the same, as apportioned by the Tribunal, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

6. This Civil Miscellaneous Appeal and Cross Objection stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal-
cum- VI Additional District Judge, Madurai.



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

+2ccs to M/s.S.HEMA Advocate in SR. No. 86513,86514

+1cc to Mr.C.JAWAHAR RAVINDRAN Advocate in SR. No. 86593

TSG

JS/GT/SAR.3/19.12.2017/4P-6C

**C.M.A. (MD) No.421 of 2017
and**

**C.M.P. (MD) .No.4437 of 2017
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10.11.2017**