



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.09.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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C.M.A (MD) .No.212 of 2014

and

MP (MD) No.2 of 2014

The Branch Manager,
United India Insurance Company Limited,
Thiruvalloor,
Thiruvalloor District.

... Appellant / 3RD Respondent

- Vs -

1.Saroja
2.Minor Jenisha
(Minor is represented through
her mother and natural guardian
Saroja, the 1st respondent herein)

3.Laisammal ... Respondents 1 to 3/Petitioners

4.Suyambu Raja ... 4th respondent/1st respondent

5.Amala Selvan ... 5th respondent / 2nd respondent

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree in M.C.O.P.No.39 of 2010, dated 29.03.2012 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Nagercoil.

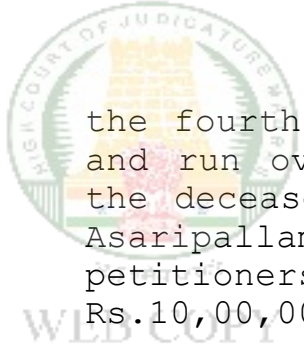
For Appellant	: Mr.N.Murugesan
For R1 to R3	: Mr.Antony S.Prabaharan
For R5	: Mr.S.J.Chakkaravarthy for M/s.Eddy & Embboss
For R4	: No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and decree in M.C.O.P.No.39 of 2010, dated 29.03.2012 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Nagercoil.

2.The case of the claimants in the petition is briefly as follows:

<https://hcservices.ecourts.gov.in/hcservices/> On 13.11.2006 at about 03.30 p.m., when the deceased was sleeping on the basement of the newly constructed house belongs to one Rejip, a Templo bearing registration No.TN-74-D-9211 driven by



the fourth respondent herein, came in a rash and negligent manner and run over the body of the deceased Jeya Singh. Immediately, the deceased was taken to Kanyakumari Medical College Hospital at Asaripallam. But in spite of the treatment he died. Hence, the petitioners/claimant claim compensation for an amount of Rs.10,00,000/-.

3.Before the Tribunal, on the side of the petitioners, P.Ws.1 and 2 were examined and Exs.P1 to P6 were marked. On the side of the respondents no oral or documentary evidence was marked.

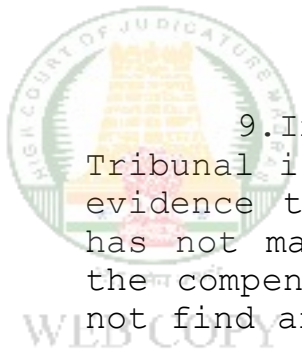
4.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the tempo van and directed the Insurance Company to pay a sum of Rs.8,15,000/-, as compensation to the claimants.

5.Against which, the appellant/Insurance Company has filed this present appeal challenging the quantum awarded by the Tribunal.

6.The learned Counsel for the appellant submitted that Tribunal erred in fixing the monthly income of the deceased at Rs.6,000/-(Rupees Six Thousand Only) per month which is on higher side and the Tribunal has not applied the correct multiplier. The amount awarded on other heads are also highly excessive.

7.Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents 1 to 3 and 5 and also perused the materials available on record.

8.From the materials available on record, it is seen that in the absence of documents to prove the income of deceased, the Tribunal has fixed notional income of the deceased at Rs.6,000/-(Rupees Six Thousand Only) which is not on higher side as claimed by the learned Counsel for the appellant. The respondents have stated that age of deceased was 38 years and as per the judgment reported in 2009(2)TN MAC 1 (SC) Sarla Verma v. Delhi Transport Corporation, the correct multiplier is 16, as adopted by the Tribunal. The Tribunal has rightly deducted 1/3rd from the monthly income and awarded a sum of Rs.7,68,000/- towards the loss of income and awarded a sum of Rs.10,000/-(Rupees Ten Thousand only) for loss of estate; a sum of Rs.15,000/- towards loss of consortium to the first respondent; a sum of Rs.10,000/- each (Rs.20,000/-) to the respondents 2 and 3 for loss of love and affection and a sum of Rs.2,000/-(Rupees Two Thousand Only) towards funeral expenses.



9. In view of the above, the compensation awarded by the Tribunal is just compensation and the appellant did not let in any evidence to disprove the case of the claimants and the appellant has not made out any case for modifying the judgment by reducing the compensation awarded by the Tribunal. Hence, this Court does not find any infirmity in the award passed by the Tribunal.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 29.03.2012 passed in M.C.O.P.No.39 of 2010 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Nagercoil, is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the major claimants are permitted to withdraw their share as apportioned by the Tribunal, with proportionate interests and costs. The Tribunal is directed to deposit the share of the minor claimant in any one of the Nationalised Banks, in a Fixed Deposit scheme, till she attain majority. The first respondent, who is the mother and guardian of the minor claimant, is permitted to withdraw the accrued interest once in three months directly from the bank, only for the welfare of minors. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate Court,
Motor Accident Claims Tribunal,
Nagercoil.

+1cc to M/S.N.Murugesan, Advocate SR.No. 78590
+1cc to M/S.B.Tamilnidhi, Advocate SR.No. 79106
+1cc to M/S.Eddy & Embboss, Advocate SR.No. 79123

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rj2

JM/SKN RSK/SAR 1/06.11.2017/3P/5C