



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2017

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.(MD)No.1463 of 2016 and
CMP(MD)No.12230 of 2016

1.A.Muthulakshmi
2.Minor.A.Chitralingam
3.Minor.A.Velpandi ... Appellants/Respondents 3 to 5
(Minor appellants 2 and 3 are represented
through their mother / 1st appellant)

Vs.

1.Ponnammal
2.Chitravel Nadar ... Respondents 1 &2/Petitioners 1 & 2
3.Abdul Gaffor K.C.

4.Royal Sundaram Alliance Insurance Co. Ltd.,
No.21, Patullos Road,
Chennai-600 002. ... Respondents 3 & 4/Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal - filed under section 173 of the Motor Vehicles Act 1988 against the award passed in M.C.O.P.No.468 of 2012, dated 12.01.2016 by the Motor Accident Claims Tribunal (Principal District Court), Tirunelveli.

For Appellant	:	Mr.T.Selvakumaran
For R-1 and R-2	:	Mr.S.Muthukrishnan
For R-3 and R-4	:	No appearance

JUDGMENT

(Judgment of this court was made by K.KALYANASUNDARAM,J.)

Challenging the apportionment of compensation passed in M.C.O.P.No.468 of 2012 by the Motor Accident Claims Tribunal (Principal District Court), Tirunelveli, the wife and the minor children of the deceased has preferred this appeal.

2.M.C.O.P.No.468 of 2012 was filed by the parents of the deceased namely C.Ayyasamy seeking compensation of Rs.50,00,000/-, impleading the wife and minor children of the deceased as the respondents 3 to 5. The wife and minor children filed a separate petition in MCOP No.681 of 2010 claiming compensation.



3. According to the claimants, on 12.02.2010 the deceased was standing in front of a stationary Car. At the time, a lorry came in a high speed hit against the stationary car. In the impact, he sustained grievous injuries and died.

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4. The Tribunal, after considering the oral and documentary evidence adduced by the parties, came to the conclusion that the accident happened due to the negligence of the driver of the lorry and awarded compensation of Rs.24,62,000/- together with interest @ 7.5% p.a. Out of the compensation amount, the parents were granted Rs.5,74,750/- each, the wife was allotted to Rs.7,12,500/- and minor children were allotted Rs.3,00,000/- each.

5. From the perusal of Exs.R3 to R7 medical bills, it is seen that an amount of Rs.10,49,604/- was spent towards medical expenses. But here, a controversy has arisen, since both the parents and the wife and minor children of the deceased have claimed to meet out the medical expenses for the deceased. PW1, the wife of the deceased has deposed that initially, she spent Rs.2,00,000/- and thereafter, got another Rs.3,00,000/- from her relatives to meet out the medical expenses of her husband. Mr.Chitravel Nadar, the father of the deceased was examined as RW1 and in his evidence, he has stated that his daughter Mrs.Vallithangam spent the entire medical expenses. RW2 Mrs.Vallithangam, the sister of the deceased has deposed that she along with her husband gave money for medical expenses from their savings and also by pledging the jewels. The tribunal, on the basis of the evidence, held that RW2 has contributed Rs.3,00,000/- towards medical expenses, so her parents are entitled for Rs.3,00,000/- and the respondents 3 and 4 are entitled to Rs.7,49,604/- and gave liberty to parties to establish their case by way of separate proceedings. The judgment and decree challenged in this appeal.

6. Heard Mr.T.Selvakumaran, learned counsel for the appellants and Mr.S.Muthukrishnan, learned counsel for the respondents 1 and 2 and perused the materials available on record.

7. Learned counsel for the appellants would submit that the wife of the deceased at the time of accident was only 32 years and the minor children were aged about 4 and 3 years respectively. It is further submitted that the entire medical expenses have been spent by the wife, the first appellant herein, but the tribunal, without considering the said fact, awarded the compensation.

8. Per contra, learned counsel for the respondents 1 and 2 would submit that medical bills were produced by the parents of the deceased and the wife has not produced any evidence to establish her case. It is further submitted that in the cross examination P.W.1, she admitted that she has spent Rs.5,00,000/-. The Tribunal, after considering the evidence, has rightly awarded Rs.3,00,000/- to the wife towards medical expenses and prayed for dismissal of the appeal.



9. In the case on hand, in the claim petition, it is stated that the parents were aged about 54 and 57. Admittedly, the wife was aged about 32 years and her two children were in tender age. The tribunal disbelieved the case of the wife, as no material documents were produced in support of her case. Eventually, the tribunal relegated the parties to the civil court to establish their case. Taking into consideration, the age of the legal-heirs of the deceased, it would be appropriate to award of **Rs.10,00,000/-** to the parents of the deceased, **Rs.4,62,000/-** to the wife of the deceased and **Rs.5,00,000/-** each to the minor children.

10. The appeal is, accordingly, disposed of with the above modification. It is represented that the Insurance Company has deposited the entire amount. Hence, the major claimants are permitted to withdraw the modified amount. The share of the minor claimants shall be deposited in any one of the nationalized bank in a fixed deposit under the reinvestment scheme, till they attain majority. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

Copy To:-

The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr. T. SELVAKUMARAN, ADVOCATE IN SR No. 85884
+ 1 CC TO Mr. S. MUTHUKRISHNAN, ADVOCATE IN SR No. 85703

SM

TE/SKN-RSK/SAR-4 : 25/04/2018 : 3P/6C

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