



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A(MD)No.483 of 2017

The Branch Manager,
The Oriental Insurance Company Limited,
Madurai Branch,
III-Floor, Bangaru Dharmasala Building,
D.No.6-A, West Veli Street,
Madurai - 625 001.

: Appellant

Vs.

1.Subbiah
2.Rajeshwari
3.Sathya
4.Minor Rajeswaran
5.Minor Santhiya
6.Minor Sneka

(Minors 4 to 6 respondents represented by their
Mother and Guardian 2nd respondent Rajeshwari)

7.T.Nesan Immanuvel

: Respondents

Prayer : Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award of Rs.14,91,000/- passed in MCOP No.67 of 2016 dated 03.12.2016, on the file of the Motor Accidents Claims Tribunal-cum-Chief Judicial Magistrate, Sivagangai.

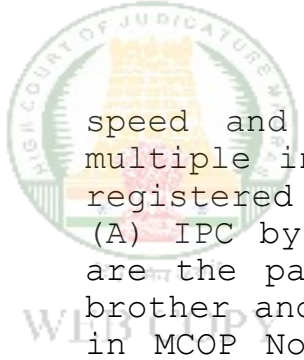
For Appellant	: Mr.K.Bhaskaran
For R1, R2 and R4 to R6	: Mr.A.M.Karuppasamy
For 3 rd Respondent	: No appearance
For 7 th Respondent	: Ex-parte

J U D G M E N T

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J]

The Insurance Company has preferred this appeal challenging the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Sivagangai, in MCOP No.67 of 2016 dated 03.12.2016.

2.The brief facts of the case are that on 13.12.2011, while the deceased Rami Kumar was sitting in a bike TN-59-AY-8147 near Yadava College, Madurai, a Star City Bike TN-59-AS-4691 came in a high



speed and dashed against him. Due to the impact, he sustained multiple injuries and died on the way to the hospital. A case was registered in Crime No.857 of 2011 under Sections 279, 337 and 304 (A) IPC by the Oomachikulam Police Station. The claimants 1 and 2 are the parents of the deceased and the claimants 3 to 6 are the brother and sisters of the deceased and they filed a claim petition in MCOP No.67 of 2016 before the tribunal seeking compensation of Rs.15,00,000/-.

3.The appellant filed a counter affidavit denying the allegations made in the claim petition and further stated that only due to the negligence of the deceased, the accident had taken place.

4.Before the Tribunal, the claimants have examined two witnesses and marked Exs.P.1 to P.9. On the side of the appellant, one Ganesan was examined as RW1 and Exs.R1 to R4 were marked. The Tribunal, after considering the oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle was responsible for the accident and awarded compensation of Rs.14,91,000/- with interest @ 7.5% p.a.

5.Learned counsel for the appellant would submit that the award passed by the Tribunal is excessive and it has to be reduced. On the other hand, the learned counsel for the claimants argued in support of the judgment of the tribunal.

6.We have heard both sides and perused the records available on record.

7.In the instant case, it is not in dispute that the deceased was 20 years old at the time of accident and he was a bachelor. The Tribunal fixed notional monthly income at Rs.10,000/- and by adding 50% towards future prospect and after deducting 50% towards personal expenses and by applying multiplier '16', awarded Rs.14,40,000/- towards loss of income. Further, the Tribunal awarded Rs.1,000/- towards Transportation; Rs.10,000/- towards funeral expenses; Rs.40,000/- towards loss of love and affection. In total, the Tribunal has awarded Rs.14,91,000/- as compensation.

8.Perusal of the records would reveal that the deceased was pursuing his B.Sc. Degree course. Considering the facts, it would be appropriate to fix notional income at Rs.6,000/- and by adding 50% toward future prospect, the monthly income is arrived at Rs.9,000/-. Since the deceased was a bachelor, after deducting 50% towards his personal expenses, loss of contribution to the family comes to Rs.4,500/- per month. By applying multiplier '16', this Court awards Rs.8,64,000/- [Rs.4,500/- x 12 x 16] towards loss of income. With regard to conventional damages, Rs.10,000/- towards funeral expenses and Rs.1000/- towards transportation appears to be low and they are increased to Rs.15,000/- and Rs.6,000/- respectively. <https://hcservices.recourts.gov.in/hcservices/> Rs.10,000/- towards loss of love and affection awarded by the Tribunal is confirmed. In total, the claimants are entitled to

Rs.9,25,000/- with interest @ 7.5% p.a.

9. In the result, the appeal is partly allowed. The award amount of Rs.14,91,000/- is reduced to Rs.9,25,000/-. It is represented by the learned counsel appearing for the appellant that the appellant/Insurance Company has already deposited the entire award amount. Therefore, the major claimants are permitted to withdraw their share as apportioned by the Tribunal and the share of the minors shall be deposited in the Indian Bank, Madurai High Court Branch, in a Fixed Deposit scheme, till they attain majority. The excess amount shall be refunded to the appellant Insurance Company. No costs.

Sd/
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal-
cum-Chief Judicial Magistrate, Sivagangai.
 2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. **(2 COPIES)**
 3. The Branch Manager,
Indian Bank, Madurai High Court Branch, Madurai.
- +1cc to Mr.K.BHASKARAN Advocate, SR.No.87733

C.M.A(MD) No.483 of 2017
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