



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1404 of 2015
and
C.M.A (MD) No.312 of 2016
and
MP (MD) No.2 of 2015

The Oriental Insurance Company Ltd,
Kumbakonam. ... Appellant in CMA (MD) No.1404 of 2015
... 2nd respondent in CMA (MD) No.312 of 2016

Vs.

1.Tmt.Sulochana

2.Minor Avineshkumar

3.Minor Abinaya

4.Minor Mathankumar

(2,3,4 Minor petitioners through
their mother and next friend,
1st respondent herein)

5.Pushpavalli

6.Kasinathan

... 1 to 6 Respondents in
CMA (MD) No.1404 of 2015
... Appellants in
CMA (MD) No.312 of 2016

7.Arivumani

... 7th respondent in
CMA (MD) No.1404 of 2015 & (given up)
1st respondent in
CMA (MD) No.312 of 2016

Common Prayer: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 14.11.2014 made in MCOP.No.83 of 2014 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Thanjavur at Kumbakonam.

CMA (MD) No.1404 of 2015 :

For Appellant

For Respondents

: Mr.C.Jawahar Ravindran

: Mr.S.Sivathilakar for R1 to R6
R7 - Exparte.

CMA (MD) No.312 of 2016 :

For Appellant

For Respondents

For R1

: Mr.S.Sivathilagar

: Mr.C.Jawahar Ravindran for R2.

: No Appearance

COMMON JUDGMENT

Heard the learned counsel for the parties.

2. The Oriental insurance company as well as claimants have filed these appeals questioning the impugned award passed by the Tribunal. The claimants seek enhancement of the compensation awarded to them.

3. One Aravindhana, husband of the first Claimant Sulochana, passed away in the accident that took place on 30.08.2013. He was a driver by avocation. The accident took place in the year 2013. The claimants have not furnished the actual proof of income earned by the deceased. But, the Tribunal fixed his monthly income as Rs.7,500/- per month. The learned counsel appearing for the appellant insurance company would contend that it is not correct. In the absence of income proof, the monthly income of the deceased should be taken as Rs.6,500/-. I find force in the said submission.

4. The deceased was aged 32 years. Since he had six dependents, the deduction towards personal expenses can only be one fourth. Considering his age, the multiplier will be 16. After adding 40% towards future prospects and deducting one fourth, the monthly income available for the family would be Rs.6,825/-.

5. Therefore, the award passed by the Tribunal ought to be reworked as under :

Pecuniary loss (6825x16x12)	: Rs.13,10,400/-
Loss of consortium and loss of love and affection for minors and parents	: Rs.2,00,000/-
Funeral expenses and loss of estate	: Rs.30,000/-
Transportation charges	: Rs.10,000/-
Total	: Rs.15,50,400/-

6. The order dated 14.11.2014 made in MCOP.No.83 of 2014 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Thanjavur at Kumbakonam is modified.

7. The Oriental insurance company is directed to deposit the sum of Rs.15,50,400/- with interest at the rate of 7.5% per annum, from the date of petition till the date of realization and costs, 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 claimants are entitled to withdraw their share as apportioned by the Tribunal, by filing proper application before the Tribunal, less the amount already withdrawn by them, if any.



8.CMA(MD)No.1404 of 2015 filed by the insurance company is partly allowed. CMA(MD)No.312 of 2016 filed by the claimants is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

*Sd/-
Assistant Registrar(w)*

/True Copy/

Sub-Assistant Registrar

To

- 1.The Motor Accidents Claims Tribunal cum
Chief Judicial Magistrate, Thanjavur at Kumbakonam.
- 2.The Record Keeper,
Madurai Bench of Madras High Court, Madurai.

+One cc to Mr.S.Siva Thilakar, Advocate, SR.No.89331

+One cc to Mr.C.Jawahar Ravindran, Advocate, SR.No.88987

SKM
RL/5C/3P/SKN/RSK/SAR1/14/12/2017

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and
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