



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.169 of 2015

and

M.P. (MD) No.1 of 2015

The Branch Manager,
Oriental Insurance Company Limited,
Door No.12, Kadpadi Road,
Kudiyatham,
Velloor District.

... Appellant

Vs.

1.Tmt.Shanmugathai
2.Esakkithai
3.Ammachiyar
4.Ganapathiammal
5.Govindasamy
(Respondent No.5 given up)

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree passed in M.C.O.P.No.40 of 2013 dated 21.08.2014 on the file of the Motor Accidents Claims Tribunal cum Sub Court, Valliyoor.

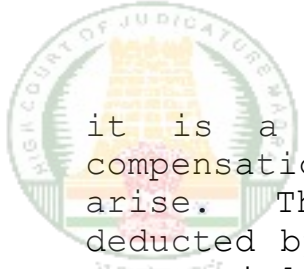
For Appellant	: Mr.C.Jawahar Ravindran
For Respondents	: Mr.S.Palanivelayutham for R1 to R4 R5-Given up

JUDGMENT

The Oriental Insurance Company Limited is on appeal questioning the award passed by the Tribunal on the ground of quantum.

2.Heard the learned counsel for both parties.

3.The claimants are the wife, mother and sisters of the deceased. The deceased was riding a two-wheeler on 20.05.2012, when the van belonging to the fifth respondent herein and insured with the appellant Insurance Company dashed against him causing the accident. Four days later, the husband of the first claimant died. The Tribunal rightly fixed the negligence on the van driver. The pecuniary loss of Rs.11,52,000/- quantified by the Tribunal cannot be said to be incorrect. A sum of Rs.2,00,000/- has been awarded towards loss of love and affection. A sum of Rs.25,000/- has been awarded towards pain and sufferings. Since



it is a case of death, the question of the awarding any compensation under the head towards pain and suffering will not arise. Therefore the award amount of Rs.14,81,100/- has to be deducted by Rs.25,000/-. It is therefore held that the claimants are entitled to a sum of Rs.14,56,100/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. In all other respects, the award passed by the Tribunal stands confirmed.

4.The appellant/Insurance Company is directed to pay the award amount of Rs.14,56,100/- with interest at 7.5% per annum and cost from the date of petition till the date of realization within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. The claimants are permitted to withdraw the entire amount as apportioned by the Tribunal, less the amount already withdrawn by them, if any. Accordingly, the award made in M.C.O.P.No.40 of 2013 dated 21.08.2014 on the file of the Motor Accidents Claims Tribunal cum Sub Court, Valliyoor is modified as indicated above. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal
Valliyoor.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.C.Jawahar Ravindran, Advocate Sr.No.84875

+1cc to Mr.S.Palanivelayutham, Advocate Sr.No.85001

TSG

VB/GT/SAR1/17/01/2018/2P/6C

**C.M.A. (MD) No.169 of 2015
and**

**M.P. (MD) No.1 of 2015
31.10.2017**