



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.312 of 2015

and

MP(MD)No.1 of 2015

M/s.Bajaj Allianz General Insurance
Co., Limited,
Rep.by its Branch Manager,
17/2, Bishop Road, Puthur,
Trichy-17.

... Appellant/2nd Respondent

Vs.

1.N.Nagarajan
2.Kamalveni
3.Ayyappan
4.P.Sivakumar

...1 to 3 Repondents/1 to 3 Petitioners
...4th Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 05.07.2012 made in M.C.O.P.No.1114 of 2008 on the file of the Motor Accidents Claims Tribunal/III Additional Sub Judge, Trichy.

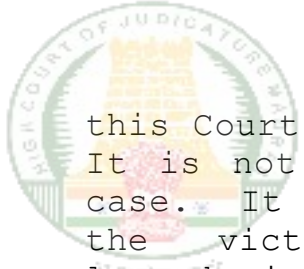
For Appellant	: Mr.G.Maruthaiah
For Respondents	: Mr.N.Sudhagar Nagaraj
	R1 to R3

JUDGMENT

The insurance company has filed this appeal questioning the award dated 05.07.2012 made in M.C.O.P.No.1114 of 2008 on the file of the Motor Accidents Claims Tribunal/III Additional Sub Judge, Trichy.

2.The claimants are the sons and daughter of the deceased Vijayalakshmi. The accident in question occurred on 11.11.2006. The said Vijayalakshmi, victim died on 21.06.2007. The claimants contended that the death was on account of the accident that took place earlier. The Tribunal accepted the said version and fixed the liability on the appellant insurance company and awarded a sum of Rs.1,65,280 with interest.

3.The learned counsel appearing for the appellant would contend that postmortem was not conducted. But on this ground,



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this Court cannot interfere with the award passed by the Tribunal. It is not necessary that postmortem must be conducted in every case. It is true that the accident took place on 11.11.2006, but the victim died on 21.06.2007. Merely because a few months lapsed, in the mean while, one cannot conclude that the accident was not the reason for the ultimate death. A mere look at the evidence would show that the victim was admitted on the date of accident and she was an inpatient till 15.11.2006. If it is a case of simple injury, one could not be in the hospital for four days. She was again re admitted on 17.03.2007 in Government Hospital, Trichy and discharged on 28.03.2007. She was again admitted in Government Hospital, Srirangam on 19.04.2007 and remained as inpatient till 08.06.2007. She continued to take treatment as an outpatient in a private hospital till 21.06.2007. On 21.06.2007 she died. Thus, it is seen that she was continuously taking treatment.

4. Therefore, the finding of the Tribunal that the death was relatable to the accident is based on preponderance of probability. This Court sustains the said finding. As regards the quantum, by no stretch of imagination can the award said to be excessive. There is absolutely no merit in this appeal. It stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal/
III Additional Sub Judge, Trichy.

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

+ 1 CC TO MR.N.Sudhagar Nagaraj, ADVOCATE IN SR No.83197

SKM

AE/SKN RSK/SAR-1/15.12.2017/2P/4C

**C.M.A. (MD) No.312 of 2015
and**

**MP (MD) No.1 of 2015
23.10.2017**