



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**C.M.A. (MD) No.735 of 2017****and****C.M.P. (MD) No.7934 of 2017**

The Reliance General Insurance Co. Ltd.,
Rep. by its Branch Manager,
Having office at No.10/414,
Thaka Plaza,
II Floor, South bye pass Road,
Vannarpet, Tirunelveli. ... Appellant/Respondent No.3

vs

1.Selvam
2.Sagaya Ancy
3.Abilash
4.Sebasthiyayi ... Respondent 1 to 4/Petitioner

5.Murugan
6.Udaya School of Engineers
Rep by its Chairman
Udaya Nagar Office,
Vellamodi Junction,
Ammandivilai, Kadiyapattinam,
Kalkulam Taluk,
Kanyakumari District. ... Respondents 5 and 6/
Respondents 1 and 2

Prayer: Appeal filed under 173 of Motor Vehicles Act, 1988,
against the Fair and Decreetal order dated 29.09.2014 made in
M.C.O.P.No.93 of 2013 on the file of Motor Accidents Claims
Tribunal, (Chief Judicial Magistrate), Nagercoil.

For Appellant : Mr.K.R.Shiva Shankari
for Mr.S.Srinivasa Raghavan

For R1 to R6 : No Appearance

JUDGMENT

The Insurance Company filed this appeal challenging the award of the Tribunal both on the ground of quantum as well as the negligence.

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2. One Selvaraj, wife of the first respondent herein is the deceased. The College bus belonging to the six respondent herein and driven by the fifth respondent herein caused the accident in question on 01.03.2012. The claimants are the wife, children and mother of the deceased. The tribunal fixed the monthly income at Rs.10,000/- and awarded compensation accordingly.

3. Heard, the learned counsel appearing for the Insurance Company.

4. Even though the appellant would contend that there was contributory negligence on the part of the deceased, no evidence was adduced before the Tribunal in this regard. Therefore I am not in a position to accept the said submission. Even though no income proof was filed on the side of the claimants, the Tribunal has fixed the monthly income at Rs.10,000/-. The accident took place in the year 2012. Therefore the monthly income can be fixed as Rs.6,500/-. Therefore, the compensation payable to the claimants can be re worked as follows:-

Sl.No	Heads	Amount in Rupees
1.	Pecuniary Loss (Rs.6,500 X 12 X 14X3/4)	Rs.8,19,000/-
2.	Loss of consortium for the wife	Rs.1,00,000/-
3.	For loss of love and affection to the respondents 2 to 4 at Rs.25,000/- each	Rs. 75,000/-
4.	Transportation Charges	Rs. 2,000/-
5.	Funeral Expenses	Rs. 25,000/-
	Total=	Rs,10,21,000/-

6. The award dated 29.09.2014 made in M.C.O.P.No.93 of 2013 on the file of Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Nagercoil is accordingly modified from Rs.12,52,000/- to Rs,10,21,000/-. The appellant is directed to pay the said award amount with interest at 7.5% per annum with costs 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, less the amount already withdrawn



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by them if any. This Civil Miscellaneous Appeal stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
(Chief Judicial Magistrate), Nagercoil.

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

+ 1 cc TO Mr.S.Srinivasa Raghavan , Advocate in SR No. 84768

cp

AE/SKN RSK/SAR3/05.12.2017/3P/4C

JUDGMENT MADE IN
C.M.A. (MD) No.735 of 2017
31.10.2017