



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.39 of 2016

WEB COPY

1.Hemamalini
2.Poongothai
3.Annavi

... Appellants/Petitioners

Vs.

1.A.Sundaresan
2.M/s.Royal Sundaram Alliance
Insurance Company Limited,
Sundaram Towers,
46, Whites Road,
Royapettai,
Chennai-600 014.

... Respondents/Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 09.10.2014 made in M.C.O.P.No.1677 of 2013, on the file of the Motor Accident Claims Tribunal/Special District Judge, Tiruchirappalli.

For Appellants : Mr.N.Sudhagarnagaraj
For Respondents : Mrs.K.R.Shivashankari
For Mr.S.Srinivasa Raghavan for R2
No Appearance for R1

JUDGMENT

Heard the learned counsel on either side.

2.The claimants have filed this appeal seeking enhancement of the compensation. The deceased Manikandan, was riding a two wheeler on 04.07.2012 at about 11.00 p.m. near, Vellakkal Mouna Madam, which lies on Manapparai-Veerapur Road. The car insured with the second respondent herein was driven in a rash and negligent manner and hit the two-wheeler. In the resulting accident, the said Manikanadan died. Crime No.270 of 2012, was registered before the Manaparai Police Station against the car driver. The Tribunal fixed the entire negligence on the car driver. Since the second respondent is the insurer of the offending vehicle, the second respondent was held liable to satisfy the award.

3.Coming to quantum, the Tribunal took the monthly income as Rs.6,000/-. But no income proof was filed. The deceased was working as a Manager in the driving school and he had also completed his B.Sc., B.Ed., degree. He finished his B.Sc., B.Ed., qualification with distinction.



4.The learned counsel for the claimants would contend that since the accident took place in the year 2012, the monthly income should be taken as Rs.6,500/-. I find force in the said submission. Since the deceased was aged 27 years, the future prospects should be added at 40%. The family comprised of three persons. The dependants were three in number. Therefore, 1/3rd deduction has to be made. In this case, multiplier 17 has to be adopted. Therefore, the pecuniary loss to the family would be Rs.12,37,600/-. A sum of Rs.70,000/- will have to be awarded under the various conventional heads. The parents are entitled to a further sum of Rs.40,000/- towards loss of love and affection. Therefore, the compensation payable to the claimants will be at Rs.13,47,600/-. The wife of the deceased will be entitled to a sum of Rs.7,47,600/-. The parents will be entitled to a sum of Rs.3,00,000/- each.

5.The award dated 09.10.2014 made in M.C.O.P.No.1677 of 2013, on the file of the Motor Accident Claims Tribunal/Special District Judge, Tiruchirappalli, is modified accordingly.

6.The second respondent is directed to deposit the compensation amount of Rs.13,47,600/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, 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 the same, as apportioned by this Court, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

7.This Civil Miscellaneous Appeal stands partly allowed. No costs.

Sd/-

Assistant Registrar (CO)

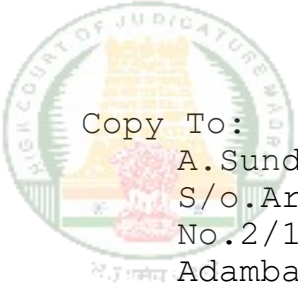
/True Copy/

Sub Assistant Registrar

To

1. The Special District Judge/
The Motor Accident Claims Tribunal,
(The Special District Court)
Tiruchirappalli.

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



Copy To:
A.Sundaresan,
S/o.Arumugam,
No.2/12,ASK Nagar 1st Street,
Adambakkam,
Chennai,
Tamilnadu.

+1CC to Mr.N.Sudhagarnagaraj, Advocate, SR.No.90304
+1CC to Mr.S.Srinivasa Raghavan , Advocate, SR.No.90166

C.M.A. (MD) No.39 of 2016
28.11.2017

TSG
ES/SKN/RSK/SAR 4/18.06.2018/3P/7C