



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.791 of 2017

V.Rani

... Appellant /1st Petitioner

Vs.

1. A.Joseph Tamilvanan

2. The National Insurance Co. Ltd,
Ganesh Complex,
No.1754/1756, Majojappa Street,
South Main Road,
Tanjore - 613 009.

... Respondents 1&2/ Respondents 1&2

3.Gopi @ Gopinath

... 3rd Respondent/3rd Petitioner

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 04.11.2016 passed in M.C.O.P.No.1105/2009 on the file of the Motor Accidents Claims Tribunal cum Principal District Court, Trichy.

For Appellant : Mr.K.P.Narayana kumar

For Respondents : Mr.Elango for R2

JUDGMENT

The mother of the deceased filed this appeal seeking enhancement. He died on 07.01.2008. He was travelling as a pillion rider when an Auto Rikshaw belonging to the first respondent herein and insured with the second respondent dashed against the two wheeler.

2.In the accident, the son of the appellant sustained injuries and later died. The Tribunal fixed the negligence on the driver employed by the first respondent. Since the driver did not possess valid driving licence, the Tribunal held that the first respondent alone was liable to pay compensation. The second respondent was directed to pay the compensation amount to the claimants and recover the same from the first respondent. This aspect regarding negligence and liability has attained finality.



The Tribunal awarded a sum of Rs.6,42,000/- with interest. Contending that the said amount was not sufficient, this Appeal has been filed.

3. The Tribunal has taken the monthly income at Rs.6,000/-. Even though income proof was not furnished, evidence was let in to show that the deceased was carrying on welding business. Therefore, it would be reasonable to fix the monthly income at Rs.10,000/-. The deceased was a bachelor and therefore he would have given 50% to the appellant herein per month. Considering the age of the appellant herein, the multiplier 14 can be adopted. Therefore, the pecuniary loss is assessed at $5,000 \times 14 \times 12 = 8,40,000/-$. For love and affection a sum of Rs.50,000/- can be given. Towards funeral expenses a sum of Rs.25,000/- can be awarded. Thus, the claimant is held entitled to Rs.9,15,000/-.

4. The compensation payable to the appellant is enhanced from Rs.6,42,000/- to Rs.9,15,000/-. The award dated 04.11.2016 passed in M.C.O.P.No.1105/2009 on the file of the Motor Accidents Claims Tribunal cum Principal District Court, Trichy is accordingly modified.

5. The second respondent insurance company is directed to deposit the entire award amount with 7.5 % interest from the date of petition till the date of realisation along with costs, within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the appellant is permitted to withdraw the entire award amount, by filing proper application before the Tribunal, less the amount already withdrawn by her, if any, by filing proper application before the Tribunal. The second respondent is at liberty to recover the compensation amount from the first respondent in the very same proceedings.

6. This Civil Miscellaneous Appeal is partly allowed as indicated above. No costs.

Sd/-

Assistant Registrar(CS-I)

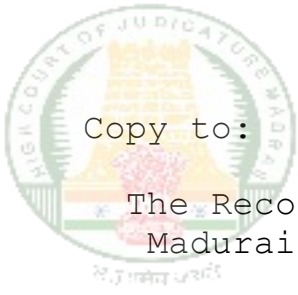
/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,

<https://hcservices.ecourts.gov.in/hcservices/motor-accidents-claims-tribunal-cum-principal-district-court-trichy>
Trichy.



Copy to:

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

+1 cc TO Mr.K.P.Narayana Kumar , Advocate in SR No. 84129

skm

AE/SKN RSK/SAR1/12.12.2017/3P/4C

C.M.A. (MD) No.791 of 2017
27.10.2017