



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.987 of 2017

1.Sathya
2.Minor Umayal
3.Minor Dharsan
4.Venkatachalam
5.Kalavathy
(Minors 2&3 are rep.by their mother and next
guardian, 1st petitioner herein) ... Appellants

Vs.

1. Gomaladevi
2. The Branch Manager,
Sri Ram General Insurance Company Ltd,
L.I.G., 306, Nagasundram complex,
2nd Floor, Suguna store buildings,
Anna Nagar, Madurai-20.
3. Tamil Nadu State Transport Corporation,
(Kumbakonam Division II) Ltd,
Rep.by its Managing Director,
Collector office road,
Periyamilagu parai, Trichy.
4. M.Nagasamy
5. The Branch Manager,
New India Assurance Company Ltd,
Madurai.
6. D.Varaguna Pandian,
7. The Branch Manager,
New India Assurance company,
No.3, Main Road, Dindigul. ... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 22.04.2014 made in MCOP.No.345 of 2010 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court, Dindigul.



For Appellants
For Respondents

: Mr.P.Krishnasamy
: Mr.D.Sivaraman for R2
Mr.P.Prabhakaran for R3
Mr.K.Murugesan for R5 & R7

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JUDGMENT

Heard the learned counsel on either side.

2.The claimants have filed this appeal seeking enhancement of compensation awarded to them by order dated 22.04.2014 made in MCOP.No.345 of 2010 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court, Dindigul.

3.The deceased was travelling in a Maruthi car. It was sandwiched between the bus belonging to the third respondent herein and the lorry insured with the second respondent herein and belonging to the first respondent. The lorry driver who was not having an effective driving licence, dashed against the maruthi car. In turn, the maruthi car dashed against the bus which was going in front. In the process, one Kesavan died. He was a Welder by profession. The claimants are his legal representatives. They filed claim petition before the Tribunal seeking a sum of Rs.10.00 lakhs as compensation. The Tribunal awarded a sum of Rs.9,00,000/- with interest. Contending that the sum is not adequate, this appeal has been filed. An application to amend the claim amount has also been made.

4.Be that as it may, this Court has power and jurisdiction to award just compensation notwithstanding the figure of compensation claimed by the claimants. The deceased was a Welder by profession. The accident had occurred in the year 2009. Therefore, the monthly income can be taken as Rs.6,000/-. The deceased was aged 37 years. Future prospects at 30% will have to be added. Since there were five dependents, only one fourth deduction can be made. Thus, the pecuniary loss would come to Rs.10,53,000/-. The Hon'ble Supreme Court has held that the conventional damages to the tune of Rs.70,000/-can be awarded. Therefore, the compensation payable to the claimants would come to Rs.11,23,000/-.

5.The award dated 22.04.2014 made in MCOP.No.345 of 2010 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court, Dindigul is modified.

6.The second respondent insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum from the date of petition till the date of realization with costs, 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 being made by the second



respondent, the claimants are entitled to withdraw the same as apportioned by the Tribunal by filing proper application, less the amount already withdrawn by them, if any.

7. The Tribunal has already granted pay and recovery order in favour of the second respondent. The second respondent shall satisfy the award now passed by this Court and recover the paid amount from the first respondent herein by filing execution petition in this very proceedings before the Tribunal. The third, fifth and seventh respondents are exonerated.

8. This Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
Dindigul.

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

+ 1 CC TO Mr.K.MURUGESAN, ADVOCATE IN SR No. 88098
+ 1 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 88080
+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 88366

SKM

TE/SKN-RSK/SAR-2 : 05/12/2017 : 3P/6C

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