



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) .No.499 & 502 of 2015

and

M.P (MD) No.1 of 2015

The Divisional Manager,
United India Insurance Co.Ltd,
Opposite to Fire Station,
Virudhunagar.

... Appellant in CMA(MD)No.499 of 2015
and 2nd Respondent in
CMA(MD)No.502 of 2015/2nd Respondent

Vs.

1.Kavitha

2.Kamalakaran

... 1st and 2nd Respondents
in CMA(MD)No.499 of 2015 and
Appellants in CMA(MD)No.502 of 2015/
Petitioner

3.R.Anbukarasan

... 3rd respondent in CMA(MD)No.499 of 2015
and 1st respondent in
CMA(MD)No.502 of 2015/1st Respondent

PRAYER : These Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the decree and award dated 31.07.2014 passed in M.C.O.P.No.66/2013 on the file of the Motor Accidents Claims Tribunal (Principal District Judge, Virudhunagar District at Srivilliputhur.

CMA (MD) No.499 of 2015 :

For Appellant : Mr.A.Shajahan

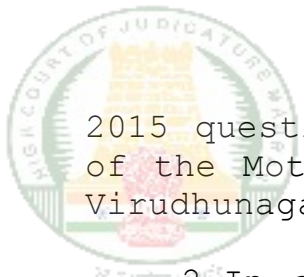
For Respondents : Mr.G.Marimuthu for R1 & R2
No appearance for R3

CMA (MD) No.502 of 2015 :

For Appellants : Mr.G.Marimuthu

For Respondents : Mr.A.Shajahan for R2
No appearance for R1

J U D G M E N T



2015 questioning the award made in MCOP.No.66 of 2013 on the file of the Motor Accidents Claims Tribunal (Principal District Judge, Virudhunagar District at Srivilliputhur.

2. In an accident that took place on 04.01.2013, the child of the appellants in CMA(MD)No.502 of 2015 died. The child was aged about 7 years. The offending vehicle was insured with the United India Insurance Company Ltd. The Tribunal awarded a sum of Rs.7,46,000/- with interest at the rate of 7.5% per annum.

3. The learned counsel for the claimants would contend that it should be enhanced further. But, the learned counsel for the insurance company placing reliance on the decision of the Honourable Supreme Court in **2013(2) TN MAC 358 (SC) (Krishnan Gopal and another Vs. Lala and others)** would contend that the compensation amount that can be awarded in respect of death of children between 10 to 15 years can be Rs.5.00 lakhs. The learned counsel appearing for the insurance company would contend that the claimant had contributed for the accident.

4. As regards the issue of negligence, the Tribunal took note of the fact that the charge sheet has been filed against the driver of the offending bus. Claimant who examined herself is PW is the eye witness. The Tribunal took into account of the relevant evidenciary material and finally fixed the negligence on the vehicle insured by the appellant company. I see no reason to interfere with the said finding. The claimants are well educated. Both of them are employed. But that does not mean that they cannot maintain a petition for compensation for loss of their child in the accident caused by the vehicle insured by the insurance company. The contention raised by the insurance company that the compensation awarded by the Tribunal amounts to bonanza to the claimants who are well placed in life is in poor taste. The law officers as well as the panel counsels of the insurance company should be a little more sensitive when contesting compensation claims. The loss of child is incalculable.

5. I am of the view that the Tribunal adopted the correct approach while quantifying the amount of compensation payable to the claimants. It does not suffer from any error. Both appeals therefore stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar



To

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Virudhunagar District at Srivilliputhur.

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Copy to

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

+2cc to M/s.G.M.Law Officer, Sr.No.82449,82450
+1cc to Mr.A.Shajahan, Advocate Sr.No.82512

SKM

VB/GT/SAR2/03/11/2017/3P/6C

**C.M.A. (MD) .No.499 & 502 of 2015
and
M.P (MD) No.1 of 2015
11.10.2017**