



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.10.2017

CORAM

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND**

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A(MD)No.667 of 2016

1.A.Murugesan
2.M.Karuppayee
3.M.Jeevitha
4.M.Sabitha
5.M.Sharma

: Appellants/Petitioners

Vs.

1.K.Dhasan
2.M/s United India Insurance Co., Ltd.,
Through its Divisional Manager,
Divisional Office,
Jeevajothe Building,
Salai Road,
Dindigul - 624 001.

: Respondents/Respondents

Prayer : Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the order made in MCOP No.1051 of 2013 dated 07.01.2016 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge, (PCR), Madurai.

For Appellant : Mr.M.Kannan

For 2nd Respondent : Mr.I.Suthakaran

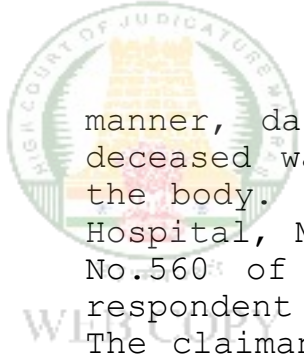
For 1st Respondent : No appearance

J U D G M E N T

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J]

Being dissatisfied with the award passed by the Motor Accident Claims Tribunal (III Additional District Court, (PCR)), Madurai, in MCOP No.1051 of 2013, the legal-heir of the deceased M.Sabapathy has come up with the present appeal seeking enhancement.

2.The facts of the case are that on 30.11.2012 at about 13.00 hours, when the deceased was riding his motorcycle TN-59-AC-5260 after finishing his work at Konthagai and returning to Thiruppuvanam, from west to east direction, a lorry KA-01-D-8696, which was coming from opposite direction in a rash and negligent



manner, dashed against the deceased vehicle. In the impact, the deceased was thrown away and sustained grievous injuries all over the body. Immediately, while he was taken to the Rajaji Government Hospital, Madurai, but he died on the way. A criminal case in Crime No.560 of 2012 was registered against the driver of the first respondent under Section 304(A) IPC by Thriuppuvanam Police Station. The claimants sought compensation of Rs.1,25,00,000/- on the ground that the driver of the first respondent was responsible for the accident.

3.The claim was opposed by the second respondent Insurance Company disputing the manner of accident and their liability to pay compensation.

4.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the first respondent was responsible for the accident and awarded compensation of Rs.37,65,750/- with interest @ 7.5% p.a.

5.Mr.M.Kannan, learned counsel for the appellants submitted that the deceased was a Sub-Inspector of Police and he was earning Rs.24,902/- per month, but while calculating the loss of income, the Tribunal has deducted Rs.2,490/- towards income tax. It is further submitted that since the income of the deceased was Rs.24,902/-, there was no necessity to pay income tax.

6.It is not in dispute that the deceased was working as Sub-Inspector of Police and earning Rs.24,902/- per month and he died as a bachelor at the age of 24 years. The tribunal deducted Rs.2,490/- towards income tax, considering the fact that it is a taxable income and by following the principles in the case of Sarla Verma, awarded Rs.36,30,750/- towards loss of dependency and another Rs.1,35,000/- under conventional damages. In our considered view, the award is reasonable and there is no merit in this appeal.

7.In the result, the appeal is disposed of. No costs.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub Assistant Registrar

To

- 1.The III Additional District Judge, (PCR)
Motor Accident Claims Tribunal, Madurai.
 - 2.The V.R.Section, (2 copies)
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.M.Kannan, Advocate, SR.No.82040
+1cc to Mr.I.Suthakaran, Advocate, SR.No.82062

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