



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)Nos.85 and 86 and 2014

and

M.P. (MD)Nos.1 and 1 of 2014

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C.M.A. (MD)No.85 of 2014

The Branch Manager,
Royal Sundaram Alliance Insurance Co., Ltd.,
No.32, Krishna Rao Tank Street,
Madurai-625 001.

... Appellant/Respondent No.2

Vs.

1.Kannan

2.Chandra

3.Danalakshmi

4.Minor Anitha Devi

... Respondents/Petitioners

5.Bose@ Thavasiyan Thevar

... Respondent/Respondent No.1

(*Minor Respondent represented by
father and guardian^{1st} respondent)

(*3rd respondent declared as major and
guardianship was discharged vide Court
order dated 04.11.2016 in MP(MD)No.2/2015).

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988, against the fair and decreetal order
dated 18.08.2011 made in M.C.O.P.No.81 of 2010, on the file of the
Motor Accident Claims Tribunal (Subordinate Court), Aruppukkottai.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.V.Sasikumar

for R.1 to R.4

: No Appearance

for R.5

C.M.A. (MD)No.86 of 2014

The Branch Manager,
Royal Sundaram Alliance Insurance Co., Ltd.,
No.32, Krishna Rao Tank Street,
Madurai-625 001.

... Appellant/Respondent No.2

Vs.

1.Chandra

... Respondent/Petitioner

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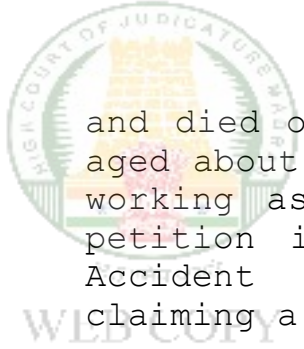
2.Bose@ Thavasiyan Thevar

... Respondent/Respondent No.1

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COMMON JUDGMENT

It is a case of fatal and the accident took place on 08.09.2009 at about 06.30a.m. While the deceased was driving a TATA magic vehicle bearing Registration No.TN-67-AA-8011 in Narikudi-Aruppukottai road, near Pallimadam Maruthuvar Colony, a lorry bearing Registration No.TN-67-D-9333 belonged to the first respondent and insured with the second respondent, came in a rash and negligent manner and dashed against the TATA Magic and due to the said impact, the deceased sustained multiple grievous injuries



and died on the spot. At the time of accident, the deceased was aged about 23 years and he was earning a sum of Rs.7,500/- p.m. by working as a driver. The mother of the deceased filed a claim petition in M.C.O.P.No.82 of 2010, on the file of the Motor Accident Claims Tribunal (Subordinate Court), Aruppukkottai, claiming a sum of Rs.12,00,000/- as compensation.

4. Before the Tribunal, on the side of the claimants, three witness viz., P.W.1 to P.W.3 were examined and nine documents viz., Exs.P.1 to P.9 were marked and on the side of the respondents, one witness viz., R.W.1 was examined and one document viz., Ex.R.1 was marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel appearing on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the offending vehicle and directed the appellant/Insurance Company to pay a sum of Rs.9,50,000/- as compensation to the claimants in M.C.O.P.No.81 of 2010 and pay a sum of Rs.7,90,000/- to the claimant in M.C.O.P.No.82 of 2010.

6. Against which, the appellant/Insurance Company has filed the present Civil Miscellaneous Appeal.

7. The only contention raised by the learned Counsel for the appellant is with regard to the quantum of compensation. He would further submit that the Tribunal has awarded higher amount as compensation for the death of the college student and the driver, without any proof. Hence, he seeks interference of this Court to the award passed by the Tribunal.

8. The learned Counsel appearing for the respondents/claimants would submit that based on the oral and documentary evidences, the Tribunal has correctly come to the conclusion and arrived at just and proper compensation. Hence, he prays for no interference at the hands of this Court in the award passed by the Tribunal.

9. Heard the learned counsel appearing for the appellant and perused the materials available on record.

10. On a reading of the finding of the Tribunal, it is clear that the Tribunal has awarded just and correct compensation for the death of the deceased. If the latest legal position of law is applied to the present case, the claimants will get more compensation. Since, the claimants have not filed any Cross-Appeals, the amounts granted by the Tribunal are hereby confirmed. Accordingly, there is no infirmity or irregularity in the award passed by the Tribunal in both M.C.O.P.Nos.81 and 82 of 2010. Therefore, both the Civil Miscellaneous Appeals deserve to be dismissed.



11. In the result, both the Civil Miscellaneous Appeals are hereby dismissed, by confirming the judgments and decrees dated 18.08.2011 made in M.C.O.P.Nos.81 and 82 of 2010, on the file of the Motor Accident Claims Tribunal (Subordinate Court), Aruppukkottai. The appellant/Insurance Company is directed to deposit the entire award amount in both M.C.O.Ps with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit being made, the major claimants in M.C.O.P.No.81 of 2010 are permitted to withdraw their entire share along with proportionate interest and costs as apportioned by the Tribunal without filing any formal petition before the Tribunal and insofar as the share of the minors are concerned, the same shall be deposited in any one of the Nationalised Bank in renewable scheme till they attain majority and the guardian of the minors is permitted to withdraw the interest amount once in three months directly from the Bank for the welfare of the minors and the claimant in M.C.O.P.No.82 of 2010 is permitted to withdraw the entire award amount with accrued interests and costs without filing any formal petition before the Tribunal. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Aruppukkottai.

+2cc to Mr.V.Sasikumar, Advocate Sr.No.76718,76719

+2cc to Mr.S.Srinivasa Raghavan, Advocate Sr.No.76780,76781

SSL

VB/KK/SAR4/11/10/2017/4P/6C

**C.M.A(MD)Nos.85 and 86 and 2014
and
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