



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.965 of 2016

1.K.Shanthi

2.K.Yuvarani

3.Minor K.Yuvaraja

(Minor is represented through his
mother, the first appellant)

... Appellants

Vs.

1.M/s.KAL Publications P. Ltd.,
through its Chairman,
2/2, Melur Main Road,
Uthangudi, Madurai - 107.

2.Bharthi

AXA General Insurance Company Ltd.,
Division Manager,
Shri Ram Center,
180, Ground Floor,
PP Chavadi, Theni Main Road,
Madurai - 016.

... Respondents

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 16.02.2016 made in M.C.O.P.No.4 of 2012 on the file of Motor Accident Claims Tribunal, District and Sessions Judge, Communal Clash Cases Court, Madurai.

For Appellants

: Mr.I.Suthakaran

Respondents

: No Appearance for R1

Mr.G.Maruthiah for R2

JUDGMENT

The claimants have filed this appeal seeking enhancement of the compensation awarded to them.

2.One Kodiraja died in an accident involving the vehicle belonging to the first respondent and insured with the second respondent. The Tribunal passed an award for a sum of Rs.7,53,112/-. But, while quantifying the compensation, the

Tribunal did not take into account the future prospects that should be added to the pecuniary loss. The deceased was riding a two wheeler. The vehicle belonging to the first respondent dashed against the said two wheeler and the same was completely damaged. Therefore, a sum of Rs.20,000/- can be awarded towards damage to the two wheeler belonging to the deceased. It is also seen that the children were not awarded any compensation towards love and affection. A sum of Rs.40,000/- each can be awarded to each of them. Therefore, the compensation payable to the claimants will have to be reworked as under:

Sl.No.	Head	Award Amount in Rs.
1.	Pecuniary loss	9,10,056
2.	Damages under conventional heads	70,000
3.	Loss of love & affection to children	80,000
4.	Damages to two wheeler	20,000
	Total	10,80,056

Therefore, the compensation payable to the claimants is enhanced from Rs.7,53,112/- to Rs.10,80,056/-. The award dated 16.02.2016 made in M.C.O.P.No.4 of 2012 on the file of Motor Accident Claims Tribunal, District and Sessions Judge, Communal Clash Cases Court, Madurai is modified accordingly.

3.The second respondent 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 and 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 being made, the claimants are permitted to withdraw their share as apportioned by the Tribunal with proportionate interest and costs, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal. The share of the minor claimant shall be deposited in any one of the nationalised bank. The natural guardian, the first appellant is permitted to withdraw the interest therefrom once in three months directly from the bank.

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

Sd/-

Assistant Registrar(RTI)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To

1. The Motor Accident Claims Tribunal, District and Sessions Judge,
Communal Clash Cases Court, Madurai.

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COPY TO:

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

+1cc to M/S.I.Suthakaran, Advocate SR.No. 88752

+1cc to M/S.G.Maruthiah, Advocate SR.No. 89014

C.M.A. (MD) No. 965 of 2016
21.11.2017

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JM/KK/SAR 1/21.12.2017/3P/5C