



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.932 of 2016

1.Rajakili

2.Ramya

3.Minor Nethaji

4.Minor Aboorva Nambi

(Minors 3 & 4 represented through their
mother/Natural guardian, the 1st
appellant herein)

... Appellants/Claimants

Vs.

1.M/s.V.K.Enterprises,

(Transport Contractors)

No.7 (21/45) Town Station Road,

Myladuthurai, Thiruvavarur District.

2.M/s.Royal Sundaram Allianz Insurance

Company,

rep. By its Divisional Manager,

Regd. Office:No.21, Pattullos Road,

Chennai.

3.M.Rahamath Kani

4.The Oriental Insurance Company Ltd.,

rep. By its Divisional Manager,

Town Hall Road, Kumbakonam,

Thanjavur District.

(R1 & 3 are given up since they remained

exparte before the Tribunal) ... Respondents/Respondents

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order of dismissal passed in M.C.O.P.No.139 of 2012 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Thanjavur at Kumbakonam dated 13.02.2015.

For Appellant : Mr.A.Thiruvadikumar

Respondents : Mr.S.Srinivasa Raghavan
for R2

R1 and R3 - given up

No appearance for R4

**JUDGMENT**

The claimants have filed this appeal challenging the dismissal of the claim petition.

2. The husband of the first appellant, namely Nagalingam admittedly met with an accident and suffered head injuries. The accident had taken place on 23.07.2007. But the death took place eight months later. There is nothing on record to show that the death was due to the accident in question. Unfortunately, the claimants did not examine any doctor to establish the link and nexus between the accident and the subsequent death. Therefore, in the absence of any material placed before the Tribunal, the Tribunal was left with no option but to dismiss the petition. The approach of the Tribunal cannot be faulted. The learned counsel appearing for the appellant would fairly submit that he would not press his claim for compensation on the ground of death. Admittedly, the deceased had suffered injuries and was an inpatient for three days. Therefore he would be entitled to be paid the cost of medical treatment incurred by him and some amount towards pain and sufferings for the head injuries and some amount to be paid for extra nourishment provided to the said Nagalingam. Attender charges will also have to be paid. Therefore, I am of the view that in the interest of justice, a sum of Rs.50,000/- can be directed to be paid as consolidated sum to the claimants. The first appellant viz., Rajakili, the wife of the deceased shall be paid a sum of Rs.50,000/- as consolidated compensation without any interest by the second respondent herein.

3. The award dated 13.02.2015.M.C.O.P.No.139 of 2012 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Thanjavur at Kumbakonam is modified accordingly.

4. The second respondent is directed to deposit the consolidated compensation amount of Rs.50,000/- within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the first appellant, viz., Rajakili, the wife of the deceased is permitted to withdraw the said amount, by filing proper application before the Tribunal.

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

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar



To

The Judge,
Motor Accident Claims Tribunal/
Chief Judicial Magistrate,
Thanjavur at Kumbakonam

Copy to:

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

+ 1 cc TO Mr.S.Srinivasa Raghavan , Advocate in SR No. 89037
+ 1 cc TO Mr.A.Thiruvadikumar , Advocate in SR No. 88568

Arul

AE/SKN RSK/SAR4/20.12.2017/3P/5C

C.M.A. (MD) No. 959 of 2016
21.11.2017