



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.12.2017
CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.1403 of 2013

Cholamandalam M.S.General Insurance
Co. Ltd., TAB Complex,
Bharathidasan Salai,
Contonment, Trichy. : Appellant/Respondent No.2

Vs.

1.Padma
2.Narayanan
3.Chinnammal : Respondents 1 to 3/petitioners
4.Rama Maruthavel : 4th Respondent/Respondent No.1

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of M.V. Act, against the Judgment and Decree, dated 29.11.2012 made in MCOP No.279 of 2010 on the file of Motor Accident Claims Tribunal (III Addl. Sub Court/Incharge), Trichy.

For Appellant : Mr.S.Srinivasa Raghavan
For R1 to R3 : Mr.J.Anandkumar
For 4th Respondent : No appearance

JUDGMENT

[Judgment of this Court was made by K.KALYANASUNDARAM,J.]

This appeal is directed against the award passed by the Motor Accident Claims Tribunal (III Additional Sub Court/Incharge), Trichy in MCOP No.279 of 2010, dated 29.11.2012.

2.The legal-heirs of the deceased Muthu filed MCOP No.279 of 2010 seeking compensation of Rs.80,00,000/- on the ground that on 02.09.2009 at 8.30 a.m, the deceased was riding his motorcycle from Paravai to Vepoor. At that time, a TATA Sumo Car TN-46-F-4979 came from the opposite direction in a high speed, dashed against the motorcycle. In the impact, both the deceased and the pillion rider has sustained multiple injuries and subsequently, they succumbed to the injuries.



3.The claim was resisted by the appellant/Insurance Company by filing a detailed counter denying the allegations made in the claim petition and it is their specific case that the deceased was responsible for the accident.

4.Before the Tribunal, on the side of the claimants, 3 witnesses were examined and 6 documents were marked as Exs.P1 to P6. On the side of the Insurance Company, no witness was examined and no document was produced. Upon consideration of the oral and documentary evidence adduced by the parties, the Tribunal has held that the driver of the Sumo caused the accident and awarded compensation of Rs.43,59,400/-. Challenging the award, the present appeal has been filed.

5.Mr.S.Srinivasa Raghavan, learned counsel for the appellant Insurance Company submitted that this appeal has been preferred only challenging the quantum and the multiplier applied by the Tribunal is contrary to the decision of the Hon'ble Apex Court in the case of **Sarla Verma**.

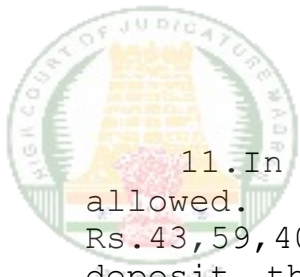
6.Mr.J.Anandkumar, learned counsel for the respondents 1 to 3 argued in support of the findings of the Tribunal.

7.Heard both sides and perused the materials available on record.

8.Since this appeal has been preferred only challenging the quantum, no necessity arises to elaborate on the finding on negligence. So, the only issue arises for consideration is as to whether the award is fair and reasonable.

9.In the instant case, the deceased Muthu was working as a Teacher in a Government School, is not disputed. Ex.P6 salary certificate shows that he was drawing a sum of Rs.21,091/- in the month of October 2009 and he died at the age of 32 years. The Tribunal, by adding 50% towards future prospects, has fixed salary as Rs.31,650/- and by applying multiplier 17, has awarded **Rs.43,04,400/-** towards loss of income. In addition, the tribunal has awarded Rs.55,000/- under the conventional heads. In total, the tribunal has awarded **Rs.43,59,400/-** together with interest @ 7.5% p.a.

10.As per the decision in the case of **Sarla Verma**, proper multiplier would be '16' and by applying the multiplier 16, this Court awards a sum of Rs.40,51,200/- (Rs.31,650 x 12 x 16 x 2/3). In addition to that, as per the decision of the Hon'ble Apex Court reported in the case of **Pranay Sethi (2017(6) CTC 493)**, the first claimant would be entitled for Rs.40,000/- towards loss of consortium; Rs.15,000/- towards funeral expenses and Rs.15,000/- loss of estate. Further, Rs.1,20,000/- is awarded towards loss of love and affection and Rs.10,000/- towards transportation. In total, the claimants would be entitled to **Rs.42,51,200/-** along with interest @ 7.5% p.a.



11. In the result, this Civil Miscellaneous Appeal is partly allowed. The award is reduced to **Rs.42,51,200/-** from Rs.43,59,400/-. The appellant Insurance Company is directed to deposit the modified amount, less the amount already deposited, within a period of eight weeks from the date of receipt of the judgment copy. On such compliance, the first claimant is entitled to withdraw Rs.27,51,200/- and the claimants 2 and 3 are each entitled to Rs.7,50,000/- with accrued interest and costs without filing any formal petition before the tribunal. The excess amount, if any, shall be refunded to the appellant Insurance company. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The III Additional Subordinate Judge,
The Motor Accident Claims Tribunal
(III Additional Sub Court/Incharge),
Trichy.

2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+1CC to Mr.S.Srinivasa Raghavan, Advocate, SR.No.90777

+1CC to Mr.J.Anandkumar, Advocate, SR.No. 90751

C.M.A(MD)No.1403 of 2013
04.12.2017

AM/ER

ES/RP/SAR 4/24.10.2018/3P/6C