



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A.No.1773 of 2013

and

M.P.(MD)No.1 of 2013

The Oriental Insurance Co.Ltd.,
No.11,E.V.N.Road,
Parimalam Complex 2nd Floor,
Erode.

...Appellant/3rd Respondent

Vs.

1.Muthukrishnan

... 1st Respondent/Petitioner No.1

2.Pappathi

... 2nd Respondent/Petitioner No.2

3.Nagarajan

...Respondent No.3 /Respondent No.1

4.Manoharan

...Respondent 4 /Respondent No. 2

(3rd & 4th Respondents given up)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decree of the Motor Accident claims Tribunal cum Sub Court, Vedasandur made in M.C.O.P.No.257/2012, dated 30.04.2013.

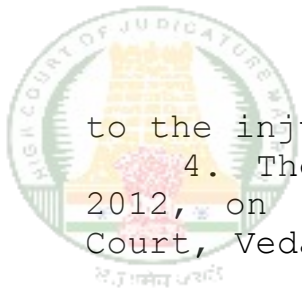
For Appellant : Mr.G.Jawahar Ravindran
For R-1 and R2 : Mr.D.Venkatesh
R3 & R4 (given up)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the fair and decreetal order dated 30.04.2013 made in M.C.O.P.No.257 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Vedachandur.

2. It is a case of fatal accident, which took place on 09.09.2010 at about 18.15 a.m., at Annur - saththi road near Ayyan Thiruvalluvar college.

3. It is the case of the claimants before the Tribunal that their son viz., Sathya was riding his motor cycle bearing registration No.TN-63-Y-1450, at Annur-Saththi road, from South to North at the left side of the road, at that time, a lorry bearing registration No.TN-33-AM-6860, which came from the opposite direction, was given by its driver in a rash and negligent manner, dashed against the motor cycle and in the said accident, the deceased sustained multiple injuries and thereafter, he succumbed



to the injuries.

4. The claimants filed an application in M.C.O.P.No.257 of 2012, on the file of the Motor Accidents Claims Tribunal, Sub Court, Vedachandur.

5. Before the Tribunal, the claimants examined two witnesses as P.Ws.1 and 2 and marked nine documents as Ex.P.1 to Ex.P.9. The appellant/Insurance Company examined one witness as R.W.1 and did not let in any documentary evidence.

6. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced 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 lorry and therefore, held that the appellant herein is liable to pay the compensation of Rs.7,32,000/- with interest at the rate of 7.5%.

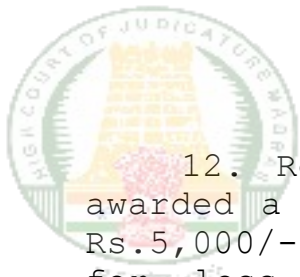
7. Against which, the appellant/Insurance Company has filed this present appeal challenging the quantum awarded by the Tribunal.

8. The learned counsel for the appellant/Insurance Company submitted that when there is no proof filed to prove the income of the deceased, the Tribunal erroneously fixed a sum of Rs.6,000/- as monthly income of the deceased and further, when the deceased was not a permanent employee and not getting salary, the Tribunal has erroneously added Rs.3,000/- towards future prospects and therefore, compensation awarded by the Tribunal, warrants interference.

9. Per contra, the learned counsel for the respondents/claimants submitted that after elaborate discussion only, the Tribunal has fixed the monthly income of the deceased as Rs.6,000/- and added Rs.3,000/- for future prospectus and also considering the fact that the deceased was bachelor, the Tribunal has rightly deducted 50% amount towards personal expenses of the deceased and therefore, the award passed by the Tribunal does not warrant interference.

10. Heard the learned counsel for the appellant and the learned counsel for the claimants and also perused the materials available on record.

11. Admittedly, the deceased was working as a Toolmaker at L.G.P. Company, Coimbatore. The learned counsel for the appellant submitted that there is no evidence to show that the victim was getting Rs.6,000/- per month. But the Tribunal after considering the nature of avocation on the basis of the appointment order of the deceased-Ex.P4 and the age of the deceased, has fixed his monthly income at Rs.6,000/- and added Rs.3,000/- for future prospectus and has rightly awarded a sum of Rs.7,02,000/- for loss of income and hence, the same is confirmed.



12. Regarding loss of love and affection, the Tribunal has awarded a sum of Rs.10,000/- to each claimants; awarded a sum of Rs.5,000/- for funeral expenses and awarded a sum of Rs.5,000/- for loss of estate, which are reasonable and so they are confirmed.

13. In view of the above, this Court does not find any infirmity in the award passed by the Tribunal.

14. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 30.04.2013 made in M.C.O.P.No.257 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Vedachandur, is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate interests and costs. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To,

The Subordinate Judge, Motor Accident Claims Tribunal,
Sub Court, Veda sandur.

COPY TO:

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

+1cc to M/S.C.JAWAHAR RAVINDRAN, Advocate SR.No.74370

+1cc to M/S.D.VENKATESH, Advocate SR.No.73962

das/rj2

MAS/JC/SAR1:05.09.2017:3P-5C

C.M.A.No.1773 of 2013
and
M.P. (MD) No.1 of 2013
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