

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 12.07.2017****CORAM****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****C.M.A.No.100 of 2011****and****M.P.(MD)Nos.1 of 2011 and 1 of 2012**

M/s. The New India Assurance Co Ltd,
Through its Branch Manager,
P.P.K.Complex 1 st Floor,
South Main Veethi,
Pudukottai.

... Appellant/2nd Respondent

Vs.

1.N.Vellaisamy ...1st Respondent/1st Petitioner
2.N.Baskar ...2nd Respondent/2nd Petitioner
3.N.Meyyappan ...3rd Respondent/3rd Petitioner
4.Jaheer Hussein ...4th Respondent/1st Respondent
(R4 exparte in the lower
Appellate Court)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree passed in M.C.O.P.No.99 of 2007 dated 27.10.2009 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Devakottai.

For Appellant : Mr.J.S.Muruli
For R1 to R3 : Mr.J.Anand Kumar

J U D G M E N T

This Civil Miscellaneous Appeal is directed under Section 173 of Motor Vehicles Act, 1988, by the Insurance Company, as against the award dated 27.10.2009 made in M.C.O.P.No.99 of 2007 dated 27.10.2009 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Devakottai.

2. It is a case of fatal accident that took place on 15.05.2007 at 6.30 p.m, at Me.Me. Road, in which, the driver of the lorry bearing Registration No. TN-A-4199, which is insured with the appellant-Insurance Company, drove the vehicle in a rash and negligent manner and dashed against the deceased, who was walking on that road and caused the death.

3. The claimants filed an application in M.C.O.P.No.99 of 2007 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Devakottai, seeking compensation.

4.Before the Tribunal, the Claimants examined two witnesses



as P.Ws.1 and 2 and marked six documents as Ex.P.1 to Ex.P.6. The appellant did not let in any oral and documentary evidence.

5.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the lorry, which is insured with the appellant/Insurance Company and directed the appellant/Insurance Company to pay a sum of Rs.2,14,000/-, as compensation.

6. Against which, the appellant/Insurance Company has filed this present appeal on the ground that the claimants are brothers of the deceased and they are not dependants of the deceased and Tribunal should not adopt multiplier '18'.

7. Per contra, the learned counsel for the claimants 1 to 3 contented that the Tribunal awarded a just and reasonable compensation and the same does not require interference and hence, this appeal is to be dismissed.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.

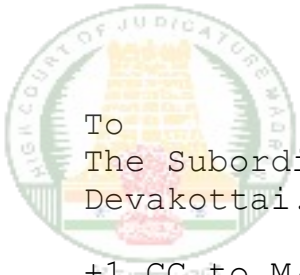
9.The learned counsel for the claimants/the respondents 1 to 3 would rely on the judgment of the Division Bench of this Court in **2016(1) TANMAC page No.453 (In ICICI Vs.Kaliyamoorthy)**, wherein the Division Bench of this Court held that brothers and sisters would also come under the category of legal representatives. This Court is of the view that the brothers born with the deceased have lost love and affection of the deceased. The compensation awarded by the Tribunal is a just compensation and therefore, there is no infirmity in the award passed by the Tribunal and the same does not require interference at the hands of this Court.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award of the Motor Accident Claims Tribunal Subordinate Judge, Devakottai, made in M.C.O.P.No.99 of 2007 dated 27.10.2009, is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of four 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 share as apportioned by the Tribunal, with proportionate interests and costs. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/



To
The Subordinate Judge, Motor Accident Claims Tribunal,
Devakottai.

+1 CC to M/s.J.S.MURALI, Advocate, SR No. 65038/17.

+1 CC to M/s. J.ANAND KUMAR, Advocate, SR No. 64854/17.

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and
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