



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.08.2017
CORAM
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A(MD)No.1503 of 2011
and
M.P(MD) .No.2 of 2011

The Branch Manager,
The Oriental Insurance Co.Ltd.,
Sathiyamoorthy illam, Sekkalai Road,
Karaikudi.

...Appellant / Respondent No.2

Vs.

1.Chittupillai
2.Kalatchi
3.Muthupillai
4.Vellachi
5.Muthu

... Respondent Nos.1 to 5 /
Petitioner Nos.1 to 5

6.Thiyagarajan

(6th respondent remained
exparte before the Lower Court) ... Respondent No.6 /
Respondent No.1

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award made in M.C.O.P.No.48 of 2008, dated 25.11.2008, on the file of the Motor Accidents Claims Tribunal cum Subordinate Judge, Aruppukottai.

For Appellant	: Mr.K.Bhaskaran
For R1, R2 R3 & R5	: Mr.G.Marimuthu
For4 & R6	: No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant against the award made in M.C.O.P.No.48 of 2008, dated 25.11.2008, on the file of the Motor Accidents Claims Tribunal cum Subordinate Judge, Aruppukottai.

2. The brief facts of the case are as follows:

It is a case of fatal accident that took place on 18.11.2007 at about 05.30 p.m. When the deceased was walking in Aruppukottai to Madurai National Highways Road, a Maruthi Car bearing Registration No.TN-02-B-0981 came in a rash and negligent manner and dashed against her and due to the impact, she sustained grievous injuries and she succumbed to the injuries.



3. The claimants filed a claim petition in M.C.O.P.No.48 of 2008, on the file of the Motor Accident Claims Tribunal, cum Subordinate Judge, Aruppukottai, claiming compensation.

4. Before the Tribunal, on the side of the claimants, one witness viz., P.W.1 was examined and four documents viz., Exs.P.1 to P.4 were marked and on the side of the respondents, neither any witness was examined nor any document was marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel appearing on either side and also appreciating the evidence on record, held that the accident occurred only due to rash and negligent driving of the Maruthi Car, which is insured with the appellant Insurance Company and directed the appellant/Insurance Company to pay a sum of Rs.1,52,000/-, as compensation.

6. Against which, the appellant/Insurance Company has filed the present Civil Miscellaneous Appeal.

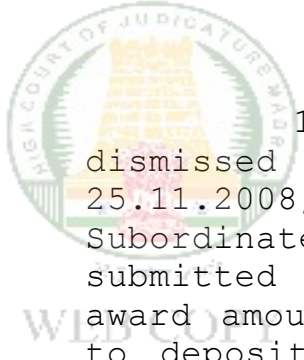
7. The learned Counsel for the appellant would contend that the first claimant is the sister of the deceased and the claimants 2 to 6 are the daughters and sons of the sister and the Tribunal erred in granting compensation to the claimants, who are not the dependants of the deceased. Hence, he seeks interference of this Court to the award passed by the Tribunal.

8. The learned counsel for the claimants would submit that the Tribunal has awarded a just and reasonable compensation and the same does not require interference and hence, this appeal is to be dismissed.

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

10. The learned counsel for the claimants 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.

11. This Court is of the view that the sisters 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.



12. In the result, this Civil Miscellaneous Appeal is dismissed and the award made in M.C.O.P.No.48 of 2008, dated 25.11.2008, on the file of the Motor Accidents Claims Tribunal cum Subordinate Judge, Aruppukottai, is hereby confirmed. It is submitted that the Insurance Company has deposited 50% of the award amount. Hence, The appellant/Insurance Company is directed to deposit the balance award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order 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 without filing formal permission petition. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal cum Subordinate Judge,
Aruppukottai.

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

+1cc to Mr.K.Bhaskaran, Advocate Sr.No.75808
+1cc to Mr.M.Jothi Basi, Advocate Sr.No.75943

CM

VB/KP/SAR1/28/09/2017/3P/5C

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