



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.07.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A. (MD) .No.587 of 2013

and

M.P. (MD) No.2 of 2013

The Branch Manager,
The National Insurance Company Limited,
Tallakulam, Madurai Town,
Madurai District.

.. Appellant/2nd Respondent

Vs.

1.S.Sakthipandi
2.Minor.S.Jeyapriya
3.Minor.S.Pandipriya
4.Minor.S.Selvi
5.Minor.S.Pavithra
(The 2nd to 5th respondents are represented through their father and next friend the 1st respondent)

.. 1st to 5th Respondents/Petitioners

6.P.Thirupathy

.. 6th Respondent/1st Respondent

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside by modifying the order of the Learned Tribunal in M.C.O.P.No.62 of 2011, dated 03.04.2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Aruppukottai.

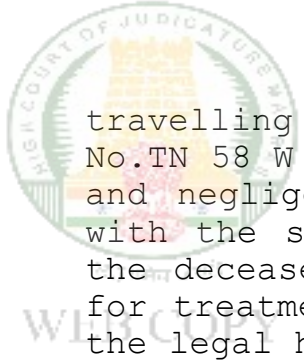
For Appellant : Mr.J.S.Murali
For R1 to R5 : Mr.G.Marimuthu
For R6 : No Appearance
(Notice Dispensed with)

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.62 of 2011, dated 03.04.2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Aruppukottai.

2. The case of the claimants in the petition is briefly as follows:
<https://hcservices.ecourts.gov.in/hcservices/>

On 26.05.2011 at about 6.45 a.m., when the deceased was



travelling as a pillion rider in a motor cycle bearing registration No.TN 58 W 5431, which was driven by the first respondent in a rash and negligent manner in Chinna Vannangulam Narikudi road, insured with the second respondent was capsized and as a result of which, the deceased sustained grievous injuries and was taken to hospital for treatment. But, she succumbed to her injuries and died. Hence, the legal heirs of the deceased filed a petition before the Tribunal claiming compensation for a sum of Rs.14,00,000/-.

3. Before the Tribunal, on the side of the petitioner, P.Ws.1 to 3 were examined and Exs.P1 to P7 were marked. On the side of the respondent, no one was examined and no document has been marked.

4. On a careful consideration of the evidence on record, the learned Tribunal has awarded a sum of Rs.9,86,000/- as compensation with interest at the rate of 7.5%. Challenging the award, the Insurance Company/2nd respondent is before this Court.

5.The learned counsel for the appellant would submit that the deceased was aged about 28 years and that the Tribunal has taken the multiplier as 18 instead of 17.

6.On the other hand, the learned counsel for the respondents/claimants would submit that for the personal expenses of the deceased, the Tribunal has erroneously deducted 1/3 instead of 1/4.

7.Heard the learned counsel for the appellant and the learned counsel for the respondents and also perused the materials available on record.

8. If the contention of the insurance company is accepted that the tribunal should have adopted 17 as multiplier, the compensation amount works out to Rs.6,48,000/- (Rs.32,000x17). Similarly, if the contention of the claimants is accepted, the compensation works out to Rs.6,12,000/- (Rs.36,000x17). However, in the case on hand, the Tribunal has awarded a lesser sum of Rs.5,76,000/- towards loss of income than the actual amount of Rs.6,12,000/-. But the fact remains that the claimants have not filed any cross-appeal before this Court. Therefore, viewed from any angle, I hold that the order of the Court below does not warrant interference at the hands of this Court. Accordingly, the claimants are entitled to get compensation of Rs.9,86,000/-, (Rupees Nine Lakhs Eighty Six Thousand only) as awarded by the Tribunal with interest at 7.5% p.a.

9.It is represented by the learned counsel for the appellant/Insurance Company that the entire award amount has already been deposited. Therefore, the claimants are permitted to withdraw the entire award amount with interest and cost, as apportioned by the Tribunal, without filing any formal petition.



10. Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. No costs.

WEB COPY

Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Aruppukottai.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.J.S.MURALI, ADVOCATE IN SR No. 66450
+ 1 CC TO Mr.G.MARIMUTHU, ADVOCATE IN SR No. 66299

RJ2/SSM
TE/KK/SAR-II : 30/08/2017 : 3P/5C

C.M.A. (MD) .No.587 of 2013 and
M.P. (MD) No.2 of 2013
19.07.2017