



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 857 of 2013
and M.P.(MD)No.6977 of 2017

1. Tamilarasi
2. Ramalingam

... Appellants / Petitioners

Vs.

1. S.K.C.Mohan Gandhi
2. Bajaj Allianz Insurance Company Ltd.,
108, 2nd Floor, TPK Road,
Madurai.

... Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.99 of 2010 on the file of the Motor Accidents Claims Tribunal, (District Judge), Karur, dated 16.04.2012.

For Appellants	: Mr.T.Selvakumaran
For R-1	: No Appearance
For R2	: Mr.J.S.Murali

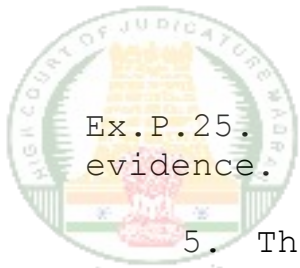
J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the claimants against the Judgment and Decree made in M.C.O.P.No.99 of 2010 on the file of the Motor Accidents Claims Tribunal, (District Judge), Karur, dated 16.04.2012.

2. It is a case of fatal accident that took place on 07.11.2009 at about 7.45 p.m, at Karur to Salem main road, in which, the driver of the Mahendra Car bearing Registration TN-59-AL-2121, which is insured with the second respondent-Insurance Company, drove the vehicle in a rash and negligent manner and dashed against the TVS XL bearing Registration No. TN-47-T-8991 in which the deceased was travelling as a pillion rider and due to the impact, he died.

3. The claimants filed an application in M.C.O.P.No.99 of 2010 on the file of the Motor Accidents Claims Tribunal, (District Judge), Karur, seeking compensation.

<https://hcservices.courts.gov.in/hcservices/>
4. Before the Tribunal, the claimants examined four witnesses as P.Ws.1 and 4 and marked twenty five documents as Ex.P.1 to



Ex.P.25. The respondents did not let in any oral or documentary evidence.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellants and the respondents 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 Mahendra Car, which is insured with the second respondent and directed the the second respondent/Insurance Company to pay a sum of Rs.3,40,050/-, as compensation.

6. Against which, the appellants/claimants have filed this present appeal for enhancement of compensation. They have stated that as per the settled position of law, the age of the deceased has to be applied for adopting multiplier, but, the Tribunal has applied the age of the mother for adopting multiplier. He further submitted that in other heads also, the amount awarded by the tribunal is low and he would draw the attention of this Court to paragraph No.13 of the order of the Tribunal.

7. The learned counsel appearing for the second respondent/Insurance Company contended 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. Paragraph No.13 of the order of the Tribunal is extracted below:

"The claimants in M.C.O.P.No.99 of 2010 examined P.W.2. P.W.2 would state that the deceased Sasikumar earned Rs.4200/- as on 30.10.2009. The claimant marked Ex.P.16 to P.20, Ex.P.16 is the wage slip. Ex.P.17 is the ledger copy. Ex.P.18 is the particulars showing the payment of bonus and Ex.P.19 is the Qu-form maintained by Shops and Establishments Act. That shows that the deceased Sasikumar worked in Ashok Financiers and earned Rs.4200/- as salary. The deceased had received Rs.7300/- as yearly bonus. Thus the deceased earned Rs.57,700/- per year as annual income. The deceased died as bachelor. Therefore, this Tribunal reduces 50% of the income of the deceased. As such the deceased would have contributed Rs.23,850/- for the welfare of the family. Since the deceased died as bachelor, the age of the mother is taken into consideration. The age of the mother as mentioned in the claimant's petition is 48 years. Therefore, multiplier 13 is taken into consideration. Thus, the claimants are entitled to Rs.23,850 X 13 =



Rs.3,10,050/- towards loss of income due to the death of Sasikumar. For Funeral expenses, Rs.10,000/- is awarded. For the loss of love and affection, both petitioners are entitled to Rs.10,000/- each. Thus the claimants are totally entitled to Rs.3,40,050/- as compensation for the death of Sasikumar.

10. As rightly pointed out by the learned counsel for the appellant that 50% has to be added towards future prospects and the multiplier has to be applied by taking the age of the deceased. Considering the same, as per Ex.P.16 to Ex.P.18, this Court takes the monthly income of the deceased at Rs.4200/-. Hence, his annual income would be Rs.50,400/- and by adding Rs.7300/- as annual bonus, his annual income would come to Rs.57,700/- by adding future prospects the amount would come to Rs.86,550/- and after deducting 50% towards personal expenses as he is a bachelor, the annual income of the deceased would come to Rs.43,275/- As per settled principles of law, multiplier should be adopted based on the age of the deceased. Since the age of the deceased was 26 at the time of accident the correct multiplier is 17. By adopting correct multiplier of 17 (43275 X 17) the loss of income would come to Rs.7,35,675/-. In all other heads, the amounts awarded by the Tribunal shall stand unaltered. The Tribunal awarded Rs.10,000/- towards funeral expenses and Rs.10,000/- each for the two claimants towards love and affection and therefore, the total compensation would be Rs.7,65,675/- rounded off to Rs.7,66,000/- The Tribunal granted 3,40,050/-, which was increased by this court to Rs.7,66,000/- The learned counsel for the appellant is directed to pay additional court fee for enhanced amount.

10. In the result, this Civil Miscellaneous Appeal is allowed and the award of the Motor Accident Claims Tribunal, Principal Subordinate Court, Kumbakonam, made in (District Judge), Karur, dated 16.04.2012, is hereby modified. The total compensation is enhanced to Rs.7,66,000/- from Rs.3,40,050/-. The second respondent/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of six weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the appellants/claimants are permitted to withdraw the award amount, with proportionate interests and costs as apportioned by the Tribunal without filing formal permission petition. No Costs. Consequently, connected C.M.P.(MD) No.6977 of 2017 is closed.

Sd/-

Assistant Registrar (CS-III)



To

The Motor Accidents Claims Tribunal,
(District Judge),

Karur.

WEB COPY

+ 1 CC TO MR.T.Selvakumaran, ADVOCATE IN SR No.70801

+ 1 CC TO MR.J.S.Murali, ADVOCATE IN SR No.71007

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MK/MR KKR/SAR-1/06.10.2017/4P/4C

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