



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.496 of 2011

and

M.P.(MD)No.1 of 2011

M/s. Oriental Insurance Company Ltd.,
rep. by its Branch Manager,
P.P.No.172, P.L.A. Building,
12A, Kovai Road,
Karur- 639 002.

... Appellant / 2nd Respondent

Vs.

1.Malaisamy
2.M.Padma

...Respondents No.1 & 2 / Claimants.

3. M/s. South India Corporation Ltd.,
Rep. by its Manager,
Kumaraja Muthaiah Nagar,
Puliyoora, Karur Taluk,
Karur District.

...3rd Respondent / 1st Respondent.

4.P.Thamarai

...4th Respondent / 3rd Respondent.

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award of the Motor Accident Claims Tribunal / II Additional Sub Court, Madurai in M.C.O.P.No.934 of 2004, dated 10.06.2010.

For Appellant : Mr.S.Veerana Samy

For R-1 & R-2 : Mr.F.Deepak

For R-3 : No appearance

For R-4 : Mr.V.Maharajan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Oriental Insurance Company against the award of the Motor Accident Claims Tribunal/II Additional Sub-Court, Madurai, passed in M.C.O.P.No.934 of 2004, dated 10.06.2010.



2. It is a case of fatal accident, which took place on 18.12.1999 at about 11.30 hours, at the roundana of Kangaeyam Police Station at Karur-Coimbatore road.

3. It is the case of the Claimants/respondents 1 & 2 before the Tribunal that when the deceased Gobi, came in his bicycle towards Karur-Coimbatore road, the driver of the Trucker lorry bearing Registration No.TN 47 6714, which is insured with the appellant-Insurance Company, drove the vehicle in a rash and negligent manner and dashed against the bicycle and caused the accident.

4. The claimants filed an application in M.C.O.P.No.934 of 2004 on the file of the Motor Accident Claims Tribunal/II Additional Sub Court, Madurai, seeking compensation.

5. Before the Tribunal, the respondents 1 and 2/Claimants, examined two witnesses as P.Ws.1 and 2 and marked ten documents as Ex.P.1 to Ex.P.10. On the side of the appellant/Insurance Company one witness was examined as R.W.1 and no document was marked on their side.

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 appellant/Insurance Company and directed the appellant to pay a sum of Rs.4,97,100/-, as compensation.

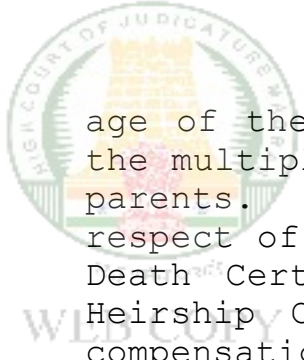
7. Against which, the appellant/Insurance Company has filed this present appeal challenging the quantum as well as liability.

8.Though in the grounds of appeal, the appellant challenges the quantum as well as liability, at the time of argument, the learned counsel for the appellant would contend that the Tribunal erred in awarding compensation to the claimants, who are the father-in-law and mother-in-law of the deceased, who are not at all dependants and further, the Tribunal erred in adopting multiplier "16" by taking into consideration the age of the deceased instead of the age of the claimants and therefore, the award of the Tribunal warrants interference.

9. Per contra, the learned counsel for the respondents 1, 2 & 4/claimants 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.

10. Heard the learned counsel appearing on both sides and services provided by the materials available on record.

11. It is well settled that in the given circumstances, the



age of the deceased can be taken into consideration for applying the multiplier instead of taking into consideration the age of the parents. The Tribunal has applied the correct multiplier. In respect of dependency also, the Tribunal based on Ex.P.6 & Ex.P.7-Death Certificates of the parents of the deceased, Ex.P8-Legal Heirship Certificate and the oral evidence of R.W.1, awarded compensation to the claimants. Further, the amounts awarded under all the heads are also just and reasonable 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 dated 10.06.2010 passed in M.C.O.P.No.934 of 2004 on the file of the Motor Accident Claims Tribunal/II Additional Sub-Court, Madurai, is 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, less the amount already deposited, if any. On such deposit being made, the claimants are permitted to withdraw their share as apportioned by the Tribunal, with proportionate interests and costs, less the amount already withdrawn, if any. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The II Additional Subordinate Judge,
Motor Accident Claims Tribunal, Madurai.

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

Pm

AE/KP/SAR3/02.08.2017/3P/3C

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