

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.8.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A.No.1614 of 2017

1.THE MANAGER

RELIANCE GENERAL INSURANCE COMPANY LTD.
2ND FLOOR, PLA PLAZAA KANAGU TOWERS
15-A 11TH CROSS THILLAI NAGAR MAIN ROAD
TRICHY.

... Appellant/2nd Respondent

Vs

1 JEEVA

2 MINOR.SRIMATHI

3 MINOR.SOWMIYA

4 MINOR.KIRUTHIKA

5 MINOR.THIRUMALAIVASAN ... Respondents 1 -5/Petitioners 1 - 5
(Minors represented by 1st respondent mother)

6 CHINNADHURAI ... Respondents/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed against the award and
decree dated 20/092016 made in M.C.O.P.No.47 of 2015 on the
file of The Motor Accidents Claims Tribunal Additional District
and Sessions Judge Ariyalur.

For appellant : Mr.S.Arun Kumar

For respondents 1 to 5 : Mr.M.Raja Gopalakrishnan

For 6th respondent : No appearance

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

This Civil Miscellaneous Appeal at the instance of
M/s.Reliance General Insurance Company Ltd., challenges the
award dated 20 September 2016 in MCOP No.47 of 2015 on the file
of the Motor Accident Claims Tribunal, Ariyalur, on the ground
of liability and quantum.

2. The respondents 1 to 5 filed a claim petition in MCOP No.47 of 2015 claiming a sum of Rs.50 lakhs as compensation on account of the death of Thiru.Rathinam, husband of the first respondent and father of respondents 2 to 5. On 16 December 2014, when Thiru.Rathinam was driving his vehicle on Senthurai to Ariyalur Road, the lorry bearing registration no.TN 61 A 5428, insured with the appellant, came in the opposite direction in a very rash and negligent manner and dashed against the vehicle. The deceased sustained grievous injuries and died on the spot. The police chargesheeted the driver of the lorry under Section 304(A) IPC. The respondents 1 to 5 pleaded that the accident took place on account of the rash and negligent driving by the driver of the lorry and as such, prayed for compensation.

3. The claim was disputed by the appellant only on the ground that the person who drove the two wheeler alone was the cause for the accident.

4. The Tribunal on the basis of the materials available on record, fixed the compensation at Rs.16,65,000/- with interest @ 7.5%. The award is under challenge in this civil miscellaneous appeal.

5. The learned counsel for the appellant contended that the accident was the result of a rash and negligent driving by the predecessor-in-interest of the respondents 1 to 5 and as such, the insurer of the said vehicle is not liable. The learned counsel further contended that the quantum awarded is high, taking into account the monthly income of the deceased.

6. There is no dispute that the lorry insured with the appellant was involved in the accident, resulting in the death of Mr.Rathinam, who was riding the two wheeler. The appellant has taken up a contention that the deceased alone contributed for the accident. However, there are no supporting materials to substantiate the contention taken by the appellant. The police charge-sheeted the driver alleging that he was rash and negligent.

7. The Tribunal on a verification of Ex.P-20, charge-sheet, found that the lorry driver parked the lorry without any parking light. The accident was at about 8 p.m. The appellant has not adduced evidence before the Tribunal to demonstrate that the deceased alone was responsible for the accident. In the absence of any such evidence, it would not be possible for this Court to take a different view in the matter. We therefore reject the contention taken by the appellant with regard to the negligence.

8. The Tribunal has taken the income of the deceased at

Rs.8,000/-. The deceased was aged about 37 years. The Tribunal therefore took the multiplier of 15. The Tribunal deducted 1/5th of the amount and calculated the amount of compensation. We do not find any error or illegality committed by the Tribunal in the matter of awarding the just compensation to the respondents 1 to 5. We therefore confirm the award passed by the Tribunal.

9. In the upshot, we dismiss the civil miscellaneous appeal filed by the Insurance Company. No costs. Consequently, C.M.P.No.8541 of 2017 is also dismissed.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Additional District and Sessions Judge, Ariyalur.
2. The Section Officer, V.R. Section, High Court, Madras
(2 copies)

+1cc to Mr.Rajagopalakrishnan, Advocate SR.No.59511

+1cc to Mr.S.Arunkumar, Advocate SR.No.59883

C.M.A.No.1614 of 2017

GMV (08/10/2018)

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