



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

C.M.A. (MD) .No.4 of 2017

and

C.M.P. (MD) .No.26 of 2017

WEB COPY

The Branch Manager
Bharti Axa Life Insurance Company Ltd.,
No.20, 1st Floor,
Royal Road,
Near Sea Horse Hospital,
Contonement,
Industrial Colony,
Trichy. : Appellant/2nd Respondent

Vs.

1.Alphonse Francis Xavier @ Xavier
2.Jone of Arch
3.Lincy : Respondents 1 to 3/Petitioners 1 to 3
4.Subbulaxmi : 4th Respondent / 1st respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, against the decree and judgment dated 22.01.2016 made in M.C.O.P.No.428 of 2015 by the Motor Accidents Claims Tribunal, Additional District Judge/Special Court for Essential Commodities Act, Thanjavur.

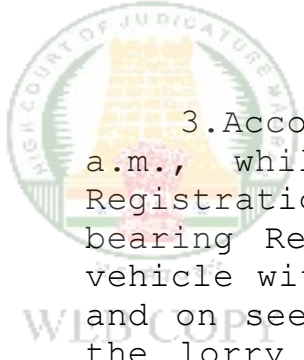
For Appellant : Mr.G.Maruthaiah
For R1 to R3 : Mr.G.Karnan
For R4 : No appearance

JUDGEMENT

[Judgement of the Court was delivered
by **T.KRISHNAVALLI, J**]

Aggrieved over the award dated 22.01.2016 passed by the Motor Accidents Claims Tribunal, Additional District Judge/Special Court for Essential Commodities Act, Thanjavur, in M.C.O.P.No.428 of 2015, the Insurance Company has filed the present appeal.

2. Heard Mr.G.Maruthaiah, learned counsel appearing for the appellant and Mr.G.Karnan, learned counsel appearing for the respondents 1 to 3 and perused the materials available on record.



3. According to the claimant, on 06.02.2015 at about 05.35 a.m., while the deceased was driving a two wheeler bearing Registration No.TN49 J 9752 from Maduravoil to Tambaram, a lorry bearing Registration No.TN 27E 7282 going ahead of the deceased vehicle without horn and parked the vehicle in the no parking area and on seeing that, the deceased dashed against the left side of the lorry and sustained grievous injuries and died on the spot. Due to which, the claimants filed a claim petition claiming compensation of Rs.60,00,000/-.

4. The claim was resisted by the appellant, Insurance Company disputing the age, income and the manner of the accident.

5. Before the Tribunal, on the side of the claimant, three witnesses viz., P.W.1 to P.W.3 were examined and thirteen documents viz., Exs.P.1 to P.13 were marked and on the side of the appellant/Insurance Company, no witness was examined and no document was marked.

6. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the learned counsel appearing on either side and also appreciating the evidence on record, awarded a sum of Rs.22,95,000/- as compensation with interest at the rate of 7.5% p.a.

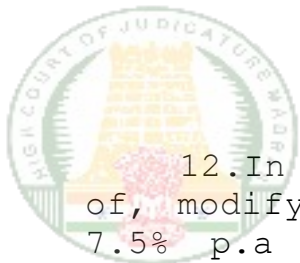
7. Against the said award, the appellant/Insurance Company has filed the present appeal.

8. The learned counsel appearing for the appellant/Insurance Company would submit that the monthly income fixed by the Tribunal is higher on the side.

9. The learned counsel for the claimants would submit that the Tribunal has fixed the monthly income as 20,000/- is correct.

10. Heard the learned counsel appearing on both sides and perused the materials available on record.

11. The deceased is a B.E., Graduate and he is a bachelor and hence, the Tribunal has fixed the monthly income at Rs.10,000/- p.m., after deducting 50% of the monthly income towards his personal expenses and after adding 40% towards his future prospects, the total income of the deceased comes to Rs.10,000+Rs.4,000/-=Rs.14,000/- The deceased is aged about 26 years and the proper multiplier to be adopted is '17'. Hence the loss of income comes to Rs.14,000x12x17x1/2=14,28,000/-. As per the dictum laid down by Hon'ble Apex Court case, the claimants are entitled to Rs.70,000/- towards conventional heads. In all, the claimants are entitled to Rs.14,28,000+Rs.70,000/- rounded off to Rs.15,00,000/-. Accordingly, the claimants are entitled to a sum of Rs.15 lakhs together with interest at the rate of 7.5% p.a.



12. In the result, the Civil Miscellaneous Appeal is disposed of, modifying the award amount to Rs.15 lakhs with interest at 7.5% p.a from the date of claim petition till the date of realization. It is stated by the appellant/Insurance Company that the entire award amount with accrued interest and costs had already been deposited to the credit of the Tribunal. In view of the same, the claimants 1 to 3 are permitted to withdraw their share in the award amount as per the ratio of apportionment made by the Tribunal, less the amount already withdrawn, if any, by making necessary application before the Tribunal. The Tribunal is directed to refund the excess award amount with proportionate accrued interest to the appellant Insurance Company, if any. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Additional District Judge/
Special Court for Essential Commodities Act,
Motor Accidents Claims Tribunal,
Thanjavur.

Copy to

The Section Officer, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.G.Maruthaiah, Advocate Sr.No.72061

+1cc to Mr.G.Karnan, Advocate Sr.No.72000

NS

VB/SV/SAR2/11.09.2018/3P/6C

**C.M.A. (MD) .No.4 of 2017
and**

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