



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	06.07.2018
Date of Judgment	17.07.2018

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CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)Nos.63, 64, 119 and 120 of 2014

and

MP (MD)Nos.1, 1 of 2014 & CMP (MD)Nos.570 and 571 of 2018

1.CMA (MD)No.63 of 2014:-

National Insurance Company Limited,
Thoothukudi.

: Appellant/Respondent No.2

Vs.

1.M.Rajasundari @ Sindhu
2.M.Vinayagasundaram
3.V.Sundari
4.K.Radhakrishnan
5.Suriya Prakash
6.R.K.Kannan
7.Royal Sundaram Alliance Insurance Co. Ltd.,
Bus Plaza, 3rd Floor,
No.5G, Lawsons Road,
Trichy-620 014.

: Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, against the judgment and decree in MCOP No.110 of 2012, dated 31.07.2013 on the file of the Motor Accident Claims Tribunal (II Additional District Court), Thoothukudi.

2.CMA (MD)No.119 of 2014:

1.M.Rajasundari @ Sindhu
2.M.Vinayagasundaram
3.V.Sundari

: Appellants/Petitioners

Vs.

1.K.Radhakrishnan,
S/o.Kasilingam,
Ananda Travels,
Opp. Daily Thanthis Office,
M.C. Junction,
Trichy.



2.National Insurance Company Ltd.,
Branch-1,
33, Promenade Road,
Contentment,
Trichy.

3.Suriya Prakash

4.R.K.Kannan

5.Royal Sundaram Alliance Insurance Co. Ltd.,
Bus Plaza, 3rd Floor,
No.5G, Lawsons Road,
Contentment,
Trichy-620 001.

: Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, against the judgment and decree in MCOP No.110 of 2012, dated 31.07.2013 on the file of the Motor Accident Claims Tribunal (II Additional District Court), Thoothukudi.

3.CMA(MD)No.64 of 2014:-

National Insurance Company Limited,
Thoothukudi.

: Appellant/Respondent No.2

Vs.

1.M.Rajasundari @ Sindhu

: R1/Petitioner

2.K.Radhakrishnan

3.Suriya Prakash

4.R.K.Kannan

5.Royal Sundaram Alliance Insurance Co. Ltd.,
Bus Plaza, 3rd Floor,
No.5G, Lawsons Road,
Trichy-620 014.

: R2 to R5/R1, R3, R4 and R5

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, against the judgment and decree in MCOP No.113 of 2012, dated 31.07.2013 on the file of the Motor Accident Claims Tribunal (II Additional District Court), Thoothukudi.

4.CMA(MD)No.120 of 2014:-

1.M.Rajasundari @ Sindhu

: Appellant/Petitioner

Vs.

1.K.Radhakrishnan,

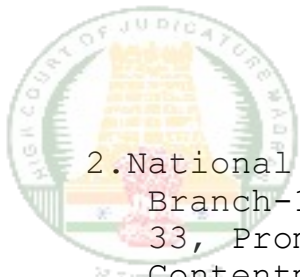
S/o.Kasilingam,

Ananda Travels,

Opp. Daily Thanthis Office,

Madurai Road Junction,

Trichy.



2.National Insurance Company Ltd.,
Branch-1,
33, Promenade Road,
Contentment,
Trichy.

3.Suriya Prakash
4.R.K.Kannan

5.Royal Sundaram Alliance Insurance Co. Ltd.,
Bus Plaza, 3rd Floor,
No.5G, Lawsons Road,
Contentment,
Trichy-620 001.

: Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, against the judgment and decree in MCOP No.113 of 2012, dated 31.07.2013 on the file of the Motor Accident Claims Tribunal (II Additional District Court), Thoothukudi.

For Appellant in

CMA(MD) Nos.63 &
64 of 2014 and
For 2nd Respondent in
CMA(MD) No.119 and
120 of 2014

: Mr.D.Sivaraman

For Appellants in CMA(MD)
No.119 and 120 of 2014 &
For R1 in CMA(MD) No.64
of 2014 & R1 to R2 in
CMA(MD) No.63 of 2014

: Mr.T.Selvakumaran

For R5 in CMA(MD) Nos.64,
119 & 120 of 2014 and
For R7 in CMA(MD) No.63 of
2014

: Mr.M.E.Ilango

For R4 to R6 in
CMA(MD) No.63 of 2014
&

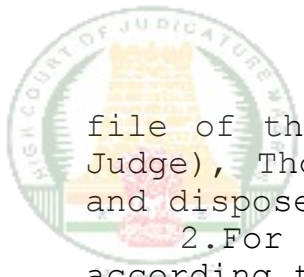
: No appearance

For R2 to R4 in CMA(MD)
No.64 of 2014
and For RR1,3 and 4 in
CMA(MD) 119 & 120/2014

: No appearance

COMMON JUDGMENT

[Judgment of the Court was made by T.KRISHNAVALLI,J.]



file of the Motor Accident Claims Tribunal (II Additional District Judge), Thoothukudi, they are taken up together for final disposal and disposed of by a common judgment.

2. For the sake of convenience, the parties are referred to according to their litigative status before the Tribunal.

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3. CMA(MD) Nos. 63 and 119 of 2014 arise out of the award passed in MCOP No. 110 of 2012 by the Motor Accident Claims Tribunal (II Additional District Judge), Thoothukudi, dated 31.07.2013, whereas CMA(MD) Nos. 64 and 120 of 2014 have been preferred by both the National Insurance Company and the claimants, challenging the award passed in MCOP No. 113 of 2012 by the Motor Accident Claims Tribunal (II Additional District Judge), Thoothukudi, dated 31.07.2013.

4. The brief facts of the case are that on 26.12.2011, the deceased Maharajan, his wife Shanthi and daughter Rajasundari were travelling in a Tax Car bearing registration No. TN-45-AL-2984 from Trichy to Chennai. When the Car was nearing the Over-bridge of Thirukoyiloor along Villupuram National Highways Bye-Pass Road at 5.30 am, the driver of the Tax Car drove it in a rash and negligent manner and hit against a lorry bearing registration No. TN-49-A-8899, which was going in front of the Car. Due to the impact, the left side of the Car was ripped off and Maharajan and his wife Shanthi were sustained multiple injuries and died on the spot, while their daughter Rajasundari has escaped with simple injuries. The claimants, being the daughter and parents of the deceased Maharajan, in MCOP No. 110 of 2012, sought compensation of 1,00,00,000/- on the ground that the driver of the Taxi Car was responsible for the accident. The claimant, being the only daughter of the deceased Shanthi, in MCOP No. 113 of 2012 has filed the claim petition seeking compensation of Rs. 1,10,00,000/- for the death of his mother.

5. The claimants in MCOP No. 110 of 2012 have stated that the deceased Maharajan was working as Branch Manager in Indian Bank, Crawford, Trichy and he was getting the salary of Rs. 38,835/- per month. The claimant in MCOP No. 113 of 2012 has stated that the deceased T.P. Shanthi was working as Higher Grade Assistant in LIC, Unit-I Branch, Trichy and she was getting the salary of Rs. 46,732/- per month. A criminal case in Crime No. 1142 of 2011 stands registered under Sections 279, 337 and 304(A) IPC by the Villupuram Taluk Police Station against the driver of the Taxi Car in respect of the alleged accident.

6. In the counter filed by the National Insurance Company, they have disputed and denied the averments stated in the claim petitions. However, the Tribunal, upon consideration of the evidence adduced by the parties, held that the accident occurred due to the negligence of the driver of the Taxi Car and awarded compensation of Rs. 50,04,669/- in respect of MCOP No. 110 of 2012 and Rs. 59,77,648/- in respect of MCOP No. 113 of 2012. Aggrieved over the common judgment and decree, both the National Insurance Company and the



claimants have come before this court.

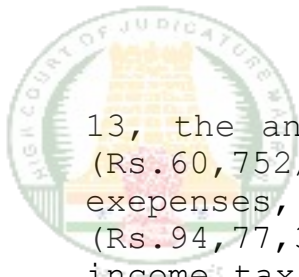
7. Heard both sides and perused the materials available on record.

8. The learned counsel appearing for the National Insurance Company submitted that they have preferred appeals in CMA (MD) Nos. 63 and 64 of 2014 only challenging the quantum and they have not disputed the other findings of the tribunal.

9. With regard to quantum in respect of MCOP No. 110 of 2012, the first claimant, being the daughter of the deceased Maharajan, as PW1 deposed in her evidence that at the time of accident, her father Maharajan was aged about 49 years and was working as Cashier in Indian Bank, Crawford, Trichy and was drawing a monthly salary of Rs. 38,835/-.

10. A perusal of Ex. P3 Legal-heir Certificate of the deceased Maharajan would show that the claimants in MCOP No. 110 of 2012 are the legal heirs of the deceased and also dependents. Further perusal of Exs. P14 and P15, the salary slip and salary certificate of the deceased, would show that the deceased was drawing a monthly salary of Rs. 38,835/- at the time of the accident. Hence, the Tribunal has rightly fixed the monthly income of the deceased at Rs. 38,835/- and by adding 30% towards future prospects, calculated the monthly income at Rs. 50,485/- (Rs. 38,835/- + Rs. 11,650/-) and by applying multiplier 13, the annual income of the deceased is arrived at Rs. 78,75,660/-. After deducting 1/3rd towards his personal expenses, the loss of dependency is arrived at Rs. 52,50,440/- (Rs. 78,75,660/- -- Rs. 26,25,220/-) and after deducting 10% towards income tax, Rs. 47,25,396/- (Rs. 52,50,440/- - Rs. 5,25,044/-) is calculated towards loss of contribution to the family. As per the decision in Pranay Sethi, this Court awards Rs. 15,000/- towards loss of estate and Rs. 15,000/- towards funeral expenses. In total, the claimants in MCOP No. 110 of 2012 would be entitled for Rs. 47,55,396/- (rounded off to Rs. 47,55,000/-) together with interest @ 7.5% p.a.

11. With regard to quantum in respect of MCOP No. 113 of 2012, the claimant, being the only daughter of the deceased T.S. Shanthi as PW1 deposed in her evidence that at the time of the accident, her mother was aged about 48 years and was working as Higher Grade Assistant in LIC, Branch I, Trichy and was drawing a monthly salary of Rs. 46,732/-. A perusal of Ex. P12 Legal heir Certificate of the deceased Shanthi, the claimant in MCOP No. 113 of 2012 is the only legal heir and also dependent of the deceased. Further perusal of Exs. P16 and P17, the salary slip and salary certificate of the deceased, it is seen that she was drawing a monthly salary of Rs. 46,732/- at the time of the accident. Hence, the Tribunal has rightly taken the monthly income at Rs. 46,732/- and by adding 30% towards future prospects, calculated the monthly income at Rs. 60,752/- (Rs. 46,732/- + Rs. 14,020/-) and by applying multiplier



13, the annual income of the deceased is arrived at Rs.94,77,312/- (Rs.60,752/- x 12 x 13). After deducting 1/3rd towards her personal expenses, the loss of dependency is arrived at Rs.63,18,208/- (Rs.94,77,312/- - Rs.31,59,104/-) and after deducting 10% towards income tax, the loss of contribution to the family is calculated to Rs.56,86,388/- (Rs.63,18,208/- - Rs.6,31,820/-). As per the decision in Pranay Sethi, this Court awards Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. In total, the claimant in MCOP No.113 of 2012 would be entitled to Rs.57,16,388/- (rounded off to Rs.57,16,000/-) together with interest @ 7.5% p.a.

12. In the result, CMA(MD)Nos.63 and 64 of 2014 are partly allowed. The award made in MCOP No.110 of 2012 is reduced to Rs.47,55,000/- from Rs.50,04,669/-. The award made in MCOP No.113 is reduced to Rs.57,16,000/- from Rs.59,77,648/-. The interest @ 7.5% p.a awarded by the tribunal in both the cases is maintained. The National Insurance Company is directed to deposit the modified award amount, less the amount already deposited, within a period of eight weeks from the date of receipt of the judgment copy. On such deposit, with regard to MCOP No.110 of 2012, the first claimant is entitled to withdraw Rs.27,55,000/- and the claimants 2 and 3 are each entitled to withdraw Rs.10,00,000/- together with accrued interest and costs without filing any formal petition before the tribunal. In respect of MCOP No.113 of 2013, the claimant is entitled to withdraw the entire modified award amount of Rs.57,16,000/- with accrued interest and costs without filing any formal petition before the tribunal.

13. In view of the orders passed in CMA(MD)Nos.63 and 64 of 2014, the appeals filed in CMA(MD)Nos.119 and 120 of 2014 by the claimants are dismissed. No costs. Consequently, connected Miscellaneous Petition are closed.

Sd/

Assistant Registrar (CO)

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Sub Assistant Registrar(CS-IV)

To

1. The II Additional District Judge,
Motor Accident claims Tribunal,
Thoothukudi.

2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1cc to Mr.M.E.ILANGO, Advocate, SR.No. 73205

+2cc to Mr.T.Selvakumaran, Advocate, SR.No. 73749,73748

+1cc to Mr.D.Sivaraman, Advocate, SR.No. 73559,73557

C.M.A(MD)Nos.63, 64, 119 and 120 of 2014
17.07.2018