



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2018

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.153 of 2018

and

C.M.P(MD) Nos.2260 & 6264 of 2018

Divisional Manager,
M/s. Royal Sundaram Alliance Insurance Company Ltd.,
Vishranthi Melaram Towers,
No.2/319,
Rajiv Gandhi Salai (OMR),
Karappakkam, Chennai,
by its service provider at
T.V.S. Co. Operative Store Building,
37, Krishna Rao Tank Street,
Madurai,
Rep. by its Divisional Manager. ... Appellant

Vs.

1.Mahalakshmi
2.Leelavathi
3.Ganesan
4.Nagajothi
5.Kannan
6.Rajeswari
7.Venkatesh
8.Gnanavel Murugan ... Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree made in M.C.O.P.No.38 of 2016, dated 19.09.2017, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Aruppukottai.

For Appellant : Mr.M.E.Ilango

For Respondents : Mr.M.Jothi Basu
for R.1 to R.7

**JUDGMENT**

This civil miscellaneous appeal has been filed challenging the award passed by the learned Subordinate Judge, Motor Accidents Claims Tribunal, Aruppukottai, in M.C.O.P.No.38 of 2016, dated 19.09.2017.

2. Heard the learned Counsel appearing on either side.

3. It is a case of fatal and the tribunal has awarded a sum of Rs.7,66,800/- as compensation, against which, the appellant Corporation is on appeal before this Court.

4. The manner of the accident, which occurred on 29.06.2016, as well as the liability are not disputed, however, the quantum is disputed.

5. The learned Counsel for the appellant would submit that the Tribunal has awarded a sum of Rs.4,36,800/- towards loss of income, on which, there is no dispute. However, other than loss of income, a sum of Rs.3,30,000/- was awarded by the Tribunal, viz., Rs.25,000/- towards funeral & transportation expenses; Rs.5,000/- towards transportation; Rs.2,00,000/- towards love and affection; Rs.1,00,000/- towards consortium, which are nothing but conventional heads. As per the latest verdict of the Hon'ble Supreme Court in the

case of **National Insurance Company Ltd., v. Pranay Sethi and others**,
<https://hcservices.ecourts.gov.in/hcservices/>

decided on 31.10.2017, the maximum compensation towards conventional



heads would be Rs.70,000/- and therefore, he prays for interference on this score alone.

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6. Perusal of record would fortify the submission made by the learned Counsel for the appellant. As per the settled position in law, maximum compensation towards conventional heads would be Rs.70,000/- and therefore, Rs.70,000/- is awarded towards conventional heads and compensation under all heads, other than loss of income, stands deleted.

7. At this juncture, it is represented by the learned Counsel for the appellant Corporation that they had already deposited the entire amount, as per the award of the Tribunal.

8. In result, the compensation awarded by the Tribunal is reduced and fixed at Rs.5,06,800/- [Rs.7,66,800/- (-) Rs.3,30,000/- (+) Rs.70,000/-]. The claimants are entitled for a sum of Rs.5,06,800/- [Rupees Five Lakh Six Thousand and Eight Hundred only] as compensation. Since it is stated by the appellant Corporation that they had already deposited the entire amount, as per the award of the Tribunal, the claimants are permitted to withdraw their respective shares, from the deposited amount, with accrued interest @ 7.5% per annum from the date of petition till the deposit and costs, as apportioned by the Tribunal, without filing any formal application before the Tribunal. The balance amount shall be refunded to the appellant Corporation.



9. With the above modifications, this civil miscellaneous appeal is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (C.O)

/True Copy/

Sub Assistant Registrar

gk

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Aruppukottai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. M. E. Ilango, Advocate in SR No. 75409

+1cc to Mr. M. Jothi Basu in SR No. 75472

C.M.A (MD) .No.153 of 2018

and
C.M.P (MD) Nos.2260 & 6264 of 2018

NM/SKN/SAR 3/12.09.18/4P/6C



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C.M.A(MD).No.153 of 2018

Divisional Manager,
M/s. Royal Sundaram Alliance Insurance Company Ltd.,
Vishranthi Melaram Towers,
No.2/319,
Rajiv Gandhi Salai (OMR),
Karappakkam, Chennai,
by its service provider at
T.V.S. Co. Operative Store Building,
37, Krishna Rao Tank Street,
Madurai,
Rep. by its Divisional Manager. ... Appellant

Vs.

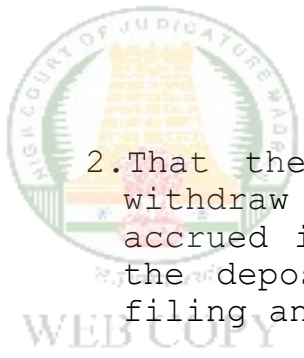
1.Mahalakshmi
2.Leelavathi
3.Ganesan
4.Nagajothi
5.Kannan
6.Rajeswari
7.Venkatesh
8.Gnanavel Murugan ... Respondents

This Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988, against the Judgment and decree made in M.C.O.P.No.38 of 2016, dated 19.09.2017 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Aruppukottai.

Decree:

This Civil Miscellaneous Appeal coming on for hearing on this day. Upon perusing the grounds of Appeal, the Judgment and Decree of the Lower Court and the material papers in this appeal and upon hearing the arguments of Mr.M.E.Ilango, Advocate for the Appellant and of Mr.M.Jothi Basu, Advocate for the respondents No.1 to 7. and this court while partly allowing the appeal doth order and decree as follows:-

1.that the award dated 19.09.2017 made in M.C.O.P.No.38 of 2016, by the Motor Accident Claims Tribunal / Subordinate Court, Aruppukottai, be and hereby is reduced from Rs.7,66,800/- (Seven Lakh Sixty Six Thousand Eight Hundred Only) to Rs.5,06,800/- (Rupees Five Lakh Six Thousand and Eight Hundred Only)



2. That the Respondents/Claimants be and hereby are permitted to withdraw their respective shares from the deposit amount, with accrued interest @7.5% per annum from the date of petition till the deposit and costs, as apportioned by the Tribunal, without filing any formal application before the Tribunal.

3. That the appellant corporation be and hereby is entitled for the balance amount.

4. That there be no order on costs in this appeal.

Assistant Registrar (CO)

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Aruppukottai.

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

+1cc to Mr. M. E. Ilango, Advocate in SR No. 75409

+1cc to Mr. M. Jothi Basu in SR No. 75472