



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	17.07.2018
Date of Judgment	23.07.2018

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A (MD) No.914 of 2015
and
M.P (MD) No.1 of 2015

The Branch Manager,
Reliance Insurance Company Limited,
Branch Office, 408,
Sakthi Super Market Building,
3rd Floor, Perunthurai Road,
Erode District.

: Appellant/2nd Respondent**Vs.**

1.S.Saraswathi
2.V.Priyadarshini
3.Minor V.Arunkumar
4.Subbammal

: R1 to R4/Petitioners 1 to 4

(Minor is represented by his
mother and natural guardian,
the 1st respondent herein)

5.K.Bakkiyaraj

: 5th Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 17.11.2014 passed in MCOP No.333 of 2011 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Karur.

For Appellant : Mr.K.Gokul
For R1 to R4 : Mr.P.Ganapathi Subramanian
For 5th Respondent : No appearance

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

Challenging the award passed by the Motor Accident Claims Tribunal (Principal District Judge), Karur, in MCOP No.333 of 2011, dated 17.11.2014, the appellant Insurance Company has preferred this appeal.



2.MCOP No.333 of 2011 was filed by the legal-heirs of the deceased Veeramalai, who died in an accident on 03.06.2011, claiming compensation of Rs.75,00,000/-. According to the claimants, the deceased Veeramalai and his relatives were travelling in a Maruti Omni Van bearing registration No.TN-49-AE-1339 on Trichy-Dindigul main road. When they were nearing Muthupudayanpatti near Manaparai at about 10.45 pm, the driver of the Maruti Van drove it in a rash and negligent manner, as a result of which, the Van was capsized. In that process, the deceased Veeramalai died on the spot and the others sustained multiple grievous injuries all over bodies and they were immediately taken to Government Hospital, Manaparai.

3.It is the further case of the claimants that at the time of accident, the deceased was aged about 50 years and he was working as Assistant Section Officer in Madurai Bench of Madras High Court, Madurai and was getting a salary of Rs.35,000/- per month.

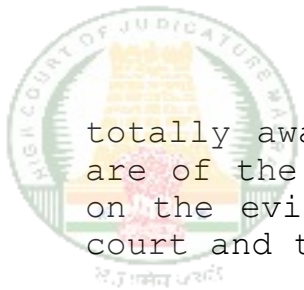
4.It is the case of the appellant Insurance Company that the award of the Tribunal is based on surmises and assumptions and it is not supported by any documentary evidence. Per contra, the learned counsel for the claimants submitted that the tribunal has erroneously fixed very meagre amount towards loss of income, overlooking the material evidence produced by the claimants.

5.Before the tribunal, on the side of the claimants, 7 witnesses were examined as PW1 to PW7 and 35 documents Exs.P1 to P35 were marked. On the side of the appellant, 3 witnesses were examined and 5 documents were marked.

6.Upon consideration of oral and documentary evidence, the tribunal has awarded compensation of Rs.31,29,956/- along with interest @ 7.5% per annum. Aggrieved by the judgment and decree, the present appeal has been filed.

7.We have heard Mr.K.Gokul, learned counsel for the appellant and Mr.P.Ganapathi Subramanian, learned counsel for the respondents 1 to 4 and perused the materials available on record.

8.In the case on hand, the deceased died at the age of 52 was proved by producing Ex.P15 (Transfer Certificate) and Ex.P35 (Service Particulars given by the Office of the Madurai Bench of Madras High Court) shows that the deceased was earning Rs.35,000/- per month. Hence, the monthly income fixed by the tribunal is correct. On the basis of the oral and documentary evidence referred above, the tribunal has fixed the annual income of the deceased at Rs.4,20,000/- (Rs.35,000/- x 12) and after deducting 1/3rd towards his personal expenses and by applying multiplier '11', awarded Rs.30,79,956/- towards loss of dependency. Further, the tribunal has awarded Rs.10,000/- to the first claimant towards loss of consortium, Rs.30,000/- to the claimants 2 to 4 towards loss of love and affection and Rs.10,000/- funeral expenses. The tribunal has



totally awarded **Rs.31,29,956/-** along with interest @7.5% p.a. We are of the considered opinion that the award of the tribunal, based on the evidence is reasonable and warrants no interference of this court and the same is confirmed.

9. In the result, the Civil Miscellaneous Appeal is **dismissed**. The Appellant Insurance Company is directed to deposit the entire award amount of Rs.31,29,956/- together with accrued interest and costs, less the amount already deposited, within a period of eight weeks from the date of receipt of the judgment copy. It is represented by the learned counsel for the respondents 1 to 4/claimants that the 3rd respondent/3rd claimant has attained majority. Hence, all the claimants are entitled to withdraw their share as per the apportionment of the tribunal without filing any formal petition before the tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Principal District Judge,
Motor Accident Claims Tribunal, Karur.

Copy To:-

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

+ 1 CC TO Mr.K.GOKUL, ADVOCATE IN SR No. 74850

+ 1 CC TO Mr.P.GANATHI SUBRAMANIAN, ADVOCATE IN SR No. 74723

ER

TE/SV/SAR-3 : 31/12/2018 : 3P/6C

Judgment made
in C.M.A(MD) No.914 of 2015
23.07.2018