



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	04.06.2018
Date of Judgment	11.06.2018

WEB COPY

DATED : 11 .06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.324 of 2018

and

CMP(MD)No.4400 of 2018

M/s.Reliance General Insurance Company Limited,
represented by its Branch Manager,
No.15-A, B.L.A. Gongu Tower,
11th Cross, Main Road, Thillainagar,
Trichy. : Appellant/Respondent No.2

Vs.

1.Mrs.Mayila
2.Minor R.Prabakaran
3.Minor R.Preetha
4.K.Selvaraj
5.Ms.Valarmathi
6.Mr.Vijayakumar : Respondents 1 to 6/Petitioners
7.Mr.M.Vajeravel : R7/Respondent No.1

PRAYER: Civil Miscellaneous Appeals have been filed under Section 173 of Motor Vehicles Act against the common award, dated 09.04.2015 made in MCOP No.4389 of 2013, on the file of Motor Accident Claims Tribunal (Special District Judge), Trichirapalli District.

For Appellant : Mr.V.Sakthivel

For R1 to R6 : Mr.N.Sudhagar Nagaraj

For 7th Respondent : No appearance

JUDGMENT

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

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Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal (Special District Judge),

Trichirappalli, in MCOP No.4389 of 2013, dated 09.04.2015.

2.The brief facts of the case are that on 13.01.2009 at about 6.45 pm, the deceased Rajkumar was driving his TVS-XL Super motor cycle bearing registration No.TN-48-H-8410 along with his wife Mayila and children as pillion rider on Tiruchirappalli-Ariyalur Road from south to north and when he was nearing Koolaiyatra Bridge, at that time, a Tanker Lorry bearing Registration No.TN-58-H-3535 driven by its driver came in the same direction, in a rash and negligent manner and dashed against the deceased. In the impact, the lorry ran over on the deceased and he died on the spot and his wife sustained injuries. The claimants sought compensation of Rs.14,00,000/- on the ground that the driver of the offending vehicle was responsible for the accident.

3.The claimants have further stated that the deceased Rajkumar was working as Mason and also doing agricultural work, thereby earning Rs.9,000/- per month. A criminal case in Crime No.32 of 2009 was registered against the driver of the offending vehicle by Lalgudi Police Station against the driver of the offending vehicle.

4.The appellant Insurance Company resisted the claim contending that the accident had taken place due to the negligence of the deceased, so they are not liable to pay any compensation and the claim was on the higher side.

5.Before the tribunal, on the side of the claimants, two witnesses were examined as PW1 and PW2 and marked 7 documents. On the side of the appellant Insurance Company, no witness was examined and no document was marked.

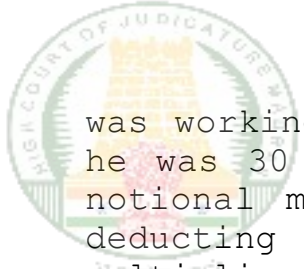
6.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.11,02,000/-. Challenging the award, the present appeal has been filed.

7.Heard the learned counsel for the appellant and the learned counsel for the respondents 1 to 6 and perused the materials available on record.

8.The manner of the accident and the finding on negligence are not in dispute and the appeal is confined only to quantum of compensation awarded by the Tribunal.

9.It is contended by the learned counsel for the appellant that the tribunal has not properly fixed the age of the deceased and the notional income fixed by the tribunal at Rs.6,000/- is on the higher side, so the quantum is to be reduced. On the other hand, the learned counsel for the respondents 1 to 6/claimants submitted that the award is reasonable, which does not warrant any interference on the part of this court.

10.In the instant case, it is not in dispute that the deceased



was working as 'Mason' and also doing agricultural activities and he was 30 years old at the time of accident. The Tribunal fixed notional monthly income of the deceased at Rs.6,000/- and after deducting 1/4th towards personal expenses and by applying multiplier '18', awarded Rs.9,72,000/- towards loss of income. Further, the Tribunal awarded Rs.60,000/- towards loss of consortium; Rs.50,000/- towards loss of love and affection and Rs.20,000/- towards transportation and funeral expenses. In total, the Tribunal has awarded Rs.11,02,000/- together with interest @ 7.5% p.a as compensation. 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.

11.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To
The Special District Judge,
The Motor Accidents Claims Tribunal-cum-
Special District Court,
Trichirapalli.

Copy to:
The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1cc to Mr.N.SUDHAGAR NAGARAJ, Advocate, SR.No.67602
+1cc to Mr.V.SAKTHIVEL, Advocate, SR.No.67663

C.M.A (MD) No.324 of 2018
11.06.2018

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KK/SV MMS/SAR-4/25.06.2018/3P-6C/