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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.1447 of 2013

and

MP(MD)No.1 of 2013

The Oriental Insurance Company Limited,
rep. by Nagercoil Branch Manager,
1st Floor, D.D.J. Centre,
Opp. To Christopher Bus Stand,
Vadasery, Nagercoil-1,
Nagercoil Village,
Agastheeswaram Taluk,
Kanyakumari District.

: Appellant/Respondent No.3

Vs.

1.Mr.S.Vincent David

2.V.Lilly Josephine

3.V.Ben Saverin B.P.T

4.Miss.V.Mary Vinei

: R1 to R4/Petitioners

5.V.Suresh Kumar, Driver

6.M.Monikandan

: R5 and R6/R1 and R2

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 29.10.2012 made in MCOP No.202 of 2008 on the file of the Motor Accident Claims Tribunal (District Judge, Kanyakumari at Nagercoil).

For Appellant : Mr.S.Veeranasamy

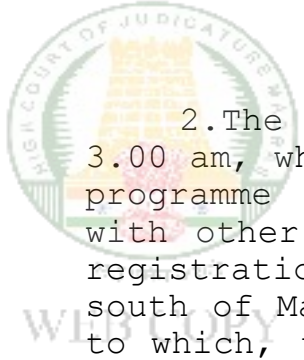
For R1 to R4 : Mr.D.Nallathambi

For R5 and R6 : No appearance

JUDGMENT

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

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



2.The brief facts of the case are that on 07.10.2007 at about 3.00 am, when the deceased Maria Veronicalisay had engaged in a tour programme from her school at Srivilliputhoor to Kanyakumari along with other teachers and some students in the Maxi Cab Van bearing registration No.TN-57-U-8046 and the Vehicle was proceeding on the south of Manoor to Sankarnkovil main road, it was capsized and due to which, the deceased Maria Veronicaliosy sustained fatal injuries and immediately after the accident, she was brought to Sakthi Hospital, Tirunelveli and thereafter, she was brought to the Government Hospital, Tirunelveli and thereafter, she was admitted in the Meenakshi Mission Hospital at Madurai as inpatient till 03.11.2007 and in-spite of better treatment, she died on 03.11.2007. The claimants, who are the husband, daughters and son of the deceased, sought compensation of Rs.25,00,000/- on the ground that the driver of the vehicle was responsible for the accident.

3.The claimants have further stated that at the time of the accident, the deceased was working as a Teacher in Sacred Heart Girl's Higher Secondary School, Srivilliputhur and thereby, she was earning Rs.27,089/-/- per month. A criminal case in Crime No.214 of 2007 was registered by the Manoor Police Station under Sections 279 and 337 of IPC against the driver of the vehicle.

4.The appellant Insurance Company resisted the claim contending that at the time of the accident, the driver of the offending vehicle did not renew his badge and the vehicle involved in the accident comes under the tourist category vehicle and therefore, the driver of the offending vehicle is necessary to get the badge and hence, the Insurance company is not liable to pay any compensation.

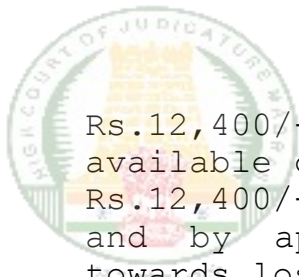
5.Before the tribunal, on the side of the claimants, two witnesses were examined as PW1 and PW2 and marked 24 documents. On the side of the appellant Insurance Company, one witness was examined and four documents were marked.

6.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, awarded compensation of Rs.14,27,719/- together with interest @ 7.5% p.a. 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 4 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 an admitted fact that at the time of the accident, the deceased was working as a teacher and was re-employed in a private school namely Sacred Heart Girl's Higher Secondary School at Srivilliputhur and she was getting the monthly salary of



Rs.12,400/- . The tribunal, after perusing the entire materials available on record, has fixed the monthly income of the deceased at Rs.12,400/- and after deducting 1/4th towards her personal expenses and by applying proper multiplier '9', awarded Rs.10,04,400/- towards loss of income.

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10.Further, the Tribunal has awarded Rs.10,000/- towards loss of consortium to the first claimant; Rs.5,000/- each towards loss of love and affection to the claimants 2 to 4; Rs.50,000/- towards pain and sufferings; Rs.10,000/- towards transportation expenses and Rs.10,000/- towards funeral expenses. In addition to that, the tribunal has awarded Rs.3,28,319/- towards medical expenses. In total, the Tribunal has awarded Rs.14,27,719/- together with interest @ 7.5% p.a, as compensation.

11.We are of the considered opinion that the award of the tribunal, based on the evidence is reasonable and warrants no interference by this court and the same is confirmed.

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

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The District Judge,
Motor Accident Claims Tribunal,
Kanyakumari District at Nagercoil.

2.The Record Keeper,VR Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+1CC to Mr.D.Nallathambi, Advocate, SR.No.68405

C.M.A(MD)No.1447 of 2013
13.06.2018

NS/ER

ES/SKN/RSK/SAR 1/24.09.2018/3P/5C