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IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 06.06.2019  
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.2676 to 2678 of 2004  
& CMP Nos.15667 to 15669 of 2004

The New India Assurance Co.Ltd.,  
NKN Complex,  
I Floor, Bed Ford Circle, Coonoor,  
(Policy No.31/721 001/19171/97). ...

Appellant in all Appeals/  
2nd Respondent in  
Tribunal below

Vs

1. Maathiammal  
2.K.Murthy  
(R-2 set exparte before the Trial Court)

... Respondents in C.M.A.Nos.  
2676 & 2677 of 2004 /  
Petitioner and First  
Respondent in Tribunal below

1. K.P.Raman  
2. K.Murthy  
(R-2 Set exparte before the Trial court)

... Respondents in C.M.A.No.  
2678 of 2004/Petitioner and  
first Repondent in Tribunal  
below.

C.M.A.Nos.2676 to 2678 of 2004 filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.11.2002 made in MCOP Nos.974, 978 and 980 of 1998, respectively, on the file of the Motor Accidents Claims Tribunal (Sub Court), Tiruppur.

For Appellant  
in all appeals  
R2

: Mr.C.Ramesh Babu  
:  
: NDW order date 09/06/2005  
by DR(AS) in CMA.No.2676 to  
2678/2004

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## COMMON JUDGMENT

The case of the claimants herein, in brief, is as follows:

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On 29.04.1998 at about 6.00 hours, the respective first respondent(s) in the above CMAs, along with others, were travelling in a van bearing Regn.No.TN-41-A-0309 from Kallakurichi towards Chennai. The van was driven by its driver in a rash and negligent manner without adhering to the traffic rules and dashed against a lorry bearing Regn.No.TDB-4993 which was stopped in the opposite direction, due to which the van got capsized. Due the said impact, the respective first respondent (s) sustained grievous injuries.

2. The injured / the respective first respondent(s) herein have filed claim petitions before the Tribunal.

3. On considering the materials available on record, the Tribunal gave a finding that only the driver of the van was responsible for the accident. In respect of MCOP No.974 of 1998, the Tribunal awarded a sum of Rs.1,29,000/- towards loss of income, Rs.5,000/- towards pain and suffering and thus awarded a total compensation of Rs.1,34,000/- rounded off to Rs.1,25,000/-. In respect of MCOP No.978 of 1998, the Tribunal awarded a sum of Rs.1,29,600/- towards loss of income, Rs.5,000/- towards pain and sufferings and thus, awarded a total compensation of Rs.1,34,600/-. In respect of MCOP No.980 of 1998, the Tribunal awarded a sum of Rs.1,72,800/- towards loss of income, Rs.5,000/- towards pain and suffering and thus awarded a total compensation of Rs.1,77,800/- rounded off to Rs.1,70,000/-. The compensation have been awarded with interest at the rate of 9% per annum from the date of petition.

4.Challenging the awards, the present appeals have been filed by the appellant - Insurance Company.

5.The learned counsel for the appellant Insurance Company has submitted that since there were no birth certificates to show the correct age of the injured at the time of accident, the multiplier adopted by the Tribunal went wrong; that in the absence of any evidence as regards the income of the deceased, the Tribunal ought to have invoked the provisions of II Schedule of the Motor Vehicles Act.

6.Heard the learned counsel for the appellant.

7.The appeals were admitted by this Court on 24.11.2004. Thereafter, the matter has been kept pending for a very long time. The appellant - Insurance Company has not taken any steps



to serve papers to the other side. On considering the oral and documentary evidences adduced, the Tribunal has passed the awards by a common judgment, which in the considered opinion of this Court, does not require any interference. In fact, the Tribunal has rounded off the compensation from Rs.1,34,000/- to Rs.1,25,000/- in respect of MCOP No.974 of 1998. In respect of MCOP No.980 of 1998, the Tribunal rounded off the compensation from Rs.1,77,800/- to Rs.1,70,000/-. Even though this Court is not agreeing for such a round-off, the difference being Rs.9,000/- in MCOP No.974 of 1998 and Rs.7,800/- in MCOP No.980 of 1998, this Court, at this length of time, is not interfering with the same.

8. The appeals filed by the Insurance Company lack merit and accordingly the same are dismissed. No costs. The appellant Insurance Company is directed to deposit the award amounts as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the sum to the Savings Bank Accounts of the claimants / first respondent (s) herein, thereafter.

-s/d-  
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

srk  
To

- 1.The Subordinate Judge/  
Motor Accidents Claims Tribunal Tiruppur.
- 2.The Section Officer,  
VR Section, Madras High Court.

+3 cc to Mr.C.Ramesh Babu Advocate sr44552 to 44554

C.M.A.Nos.2676 to 2678 of 2004

aa18/11/2019