

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.393 of 2015

and

M.P.No.1 of 2015

The Divisional Manager,
M/s.National Insurance Company Limited,
J.N.Nagar,
Pondicherry. ... Appellant/ 2ndRespondent

Vs.

Thiru.Sittarassou (Died),
Represented by his legal representatives,
S/o.Veerapathiran

1.Vijaya RespondentI/ Petitioner II
2.Minor.Gnanasekaran RespondentII/ Petitioner III
3.Minor.Swathi RespondentIII/ Petitioner IV
(minors are rep.by their next friend
and mother 1st respondent herein)
4.S.Ganasan ...IV Respondent/ RespondentI

Appeal under Section 173 of the Motor Vehicles Act
against the judgment and decree dated 14.03.2013 made in MCOP
No.1391 of 2005 on the file of the Motor Accidents Claims
Tribunal, Principal District Judge (Presiding Officer),
Pondicherry.

For Appellant : Mr.J.Chandran
For Respondents: Mr.S.P.Yuvaraj for R1 to R3
: No appearance for R4

JUDGMENT

This appeal is preferred by the appellant/Insurance
Company as against the award passed by the Tribunal in MCOP
No.1391 of 2005 dated 14.03.2013.

2.The brief facts of the case are as follows:

On 23.03.2005 at about 2.00 p.m., one Sittarassou was
proceeding in his motorcycle bearing Registration No.PY-01/V-
2900, towards Puducherry on Pudcherry-
Cuddalore Main Road from South to North direction. At that
time, the minidor van bearing Registration No.TN-32/B-7501
belonging to the fourth respondent and insured with the
appellant insurance company, came in a rash and negligent
manner and hit the motorcycle from behind. Due to the said

impact, the said motorcyclist sustained injuries on his forehead, face, eyes and nose and lacerated injuries all over his body. Immediately, he was taken to the Government General Hospital, Puducherry, where he took treatment as in-patient and thereafter, at Apollo Specialty Hospital, Chennai, where a major brain surgery was done. Stating that the accident had occurred only due to the rash and negligent driving of the driver of the van, he filed a claim petition claiming a compensation of Rs.5,00,000/-. Pending the said claim petition, he succumbed to the injuries and his legal heirs/respondents 1 to 3 herein, were brought on record, vide order of the Tribunal in I.A.No.514 of 2010 dated 19.11.2010. The Tribunal, based on the evidence and documents available on record, has awarded a sum of Rs.2,47,000/- as compensation with interest at 7.5%pa from the date of petition, which shall be payable by the appellant/Insurance Company and 4th respondent herein jointly and severally. Aggrieved over the same, the insurance company has preferred this appeal.

3.The learned counsel for the appellant/Insurance Company has disputed only the quantum of compensation awarded by the Tribunal, stating that the same is purely on its discretion rather than on the basis of either oral or documentary evidence available on record.

4.Per contra, the learned counsel for the respondents/claimants submitted that the Tribunal has analyzed each and every aspect and has awarded just and proper compensation and hence, interference is not called for.

5.Heard both sides and perused the records.

6.There is no dispute with regard to the findings of the Tribunal on negligence and liability of the appellant insurance company to pay compensation to the claimants. What was disputed herein is the quantum of compensation awarded by the Tribunal.

7.On a perusal of the award, it is seen that the Tribunal has awarded a sum of Rs.20,000/- towards Pain and Suffering, Rs.88,000/- towards medical expenses, Rs.4,000/- towards transport expenses, Rs.15,000/- towards loss of income for three months and Rs.1,20,000/- towards permanent disability, in totalling a sum of Rs.2,47,000/-. Admittedly, the claimant has sustained grievous head injury, besides receiving other injuries, in the accident that took place on 23.03.2005 and he died on 15.01.2010. Having regard to the facts and circumstances of the case and also considering the materials and evidence available on record, this Court deems it fit and proper to reduce the compensation awarded by the Tribunal towards permanent disability alone to Rs.73,000/- and the same is accordingly, modified. The compensation awarded under other heads require no modification, as the same are just and reasonable. Hence, the award of the Tribunal is modified to Rs.2,00,000/- from Rs.2,47,000/-, with interest at 7.5%p.a. from the date of claim petition, the details of which, would

i. Medical Expenses	= Rs.	88,000/-
ii. Transportation Expenses	= Rs.	4,000/-
iii. Loss of Income	= Rs.	15,000/-
iv. Loss of Future Earnings on account of permanent disability	= Rs.	73,000/-
v. Pain and Suffering	= Rs.	20,000/-
Total	= Rs.	2,00,000/-

The aforesaid sum of Rs.2,00,000/- shall be shared by the respondents 1 to 3 in the following ratio:

- 1st respondent/wife - Rs.1,00,000/-
- 2nd respondent/minor son - Rs.50,000/-
- 3rd respondent/minor daughter- Rs.50,000/-

8.In the result, this appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

9.It is submitted by the learned counsel for the appellant that the appellant insurance company has already deposited the entire award amount with proportionate interest. Further, the minor claimants would have attained majority as of now. Hence, on making proper application, the respondents 1 to 3/claimants are permitted to withdraw their respective shares. The appellant insurance company is permitted to withdraw the excess sum, lying in the deposit, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal
Principal District Judge (Presiding Officer),
Pondicherry.

Copy to:

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.S.P.Yuvaraj , Advocate SR.No. 85701

+1cc to Mr.J.Chandran , Advocate SR.No. 86028

C.M.A.No.393 of 2015

A.SK(03/08/2020)