

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.480 of 2017
and C.M.P.No.3179 of 2017

The Branch Manager,
M/s.HDFC-ERGO General Insurance
Company Limited,
Branch Office at
New No.528 (Old No.559), II Floor,
Anna Salai, Teynampet,
Chennai.

... Appellant/2nd Respondent

Vs

1.P.Veerabathiran

2.Minor V.Nitheesh
rep.by his next friend and father
P.Veerabathiran, the first respondent herein.

3.Minor V.Sachin
rep.by his next friend and father
P.Veerabathiran, the first respondent herein.

4.G.Guruprasad ... Respondents/Petitioners & 1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 31.08.2016 made in MCOP No.631 of 2015 on the file of the Motor Accidents Claims Tribunal (in the Court of Additional District Judge) at Krishnagiri.

For Appellant : Mr.J.Michael Visuvasam

For Respondents: Mr.Mukund R.Pandiyan for R1 to R3
Mr.J.Chelladurai Caldwell for R4

JUDGMENT

The case in brief, is as follows:

On 14.06.2015 at about 05.30 p.m., the deceased Muniyammal was proceeding to reach her house by walk, in the Hosur - Krishnagiri NH-7 Road. When she came opposite to Ashok Leyland

2nd Unit Company and standing at the extreme left side of the road to reach the other side of the road, the Maruti Swift Car bearing Reg.No.TN-22-CU-1225 belonging to the fourth respondent herein and insured with the appellant Insurance Company, came in a rash and negligent manner at high speed and dashed against her. Due to the said impact, she fell down and sustained fatal injuries. She was immediately taken to the Government Hospital, Hosur for first aid and thereafter to Gunam Hospital, Hosur. Finally, she was taken to the Government Hospital, Krishnagiri and she died in the hospital on 15.06.2015. The legal heirs of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.50,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.18,89,000/- with interest at the rate of 7.5% per annum from the date of petition.

2.Challenging the same, the appellant Insurance Company has come up with the present 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 totally unjustified. He further submitted that the Tribunal has failed to appreciate the fact that Ex.P9-Salary Certificate issued by M/s.Sanjay Enterprises was not marked through the employer of the deceased. In all, he submitted that the amounts awarded by the Tribunal towards various heads are excessive and exorbitant.

4.The learned counsel for the respondents 1 to 3 / claimants has submitted that the Tribunal has correctly considered the materials and evidence available on record and has awarded the compensation which is just, fair and reasonable and hence the compensation awarded by the Tribunal does not require any interference in the hands of this Court. However, he has not disputed the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the Maruti Swift Car.

5.Heard the learned counsel on either side and perused the materials and evidence available on record carefully and meticulously.

6.Since the learned counsel for the appellant has not disputed the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the Maruti Swift Car, this Court is not inclined to interfere with the said finding.

7.The husband of the deceased has been examined as P.W.1. He deposed before the Tribunal that the deceased was working as a labourer in a private company and she was earning a sum of

Rs.10,000/- per month. But no proof has been produced on the side of the claimants before the Tribunal to substantiate the same. In this connection, the Tribunal observed that considering the economic position, a normal coolie would earn around Rs.4,000/- per month. Ex.P9 is the salary certificate issued in respect of the deceased, wherein it has been stated that she was earning a sum of Rs.15,400/- for 26 days in a month. Taking note of the same, the Tribunal fixed the notional income of the deceased at Rs.12,000/- per month, deducted 1/3rd of the amount towards personal expenses of the deceased, adopted the multiplier of 17 and awarded a sum of Rs.16,32,000/- towards loss of income. Further, the Tribunal has awarded a sum of Rs.1,50,000/- towards loss of love and affection, Rs.50,000/- towards loss of consortium to the husband of the deceased, Rs.19,000/- towards transportation expenses relying upon Ex.P10-Transport Bill, Rs.18,000/- towards medical expenses relying upon Ex.P11-Medical Bills and a sum of Rs.20,000/- towards funeral expenses. The Tribunal has rightly considered the materials and evidence adduced on record, rightly fixed the monthly income of the deceased and deducted 1/3rd of the amount towards personal expenses of the deceased, adopted the correct multiplier and arrived at Rs.16,32,000/- towards loss of income. The amounts awarded towards other heads are reasonable and hence the same are confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9.The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw his share, on making proper application before the Tribunal. The share of the minor respondents 2 and 3 shall continue to be in the bank deposit, as ordered by the Tribunal, till they attain majority. The interest accrued in the bank deposit shall be withdrawn by the father of the minors, the first respondent herein, once in six months directly from the bank, which shall be used for the benefit and welfare of the minors.

Sd/-

Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
(in the Court of Additional District Judge) at Krishnagiri.

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

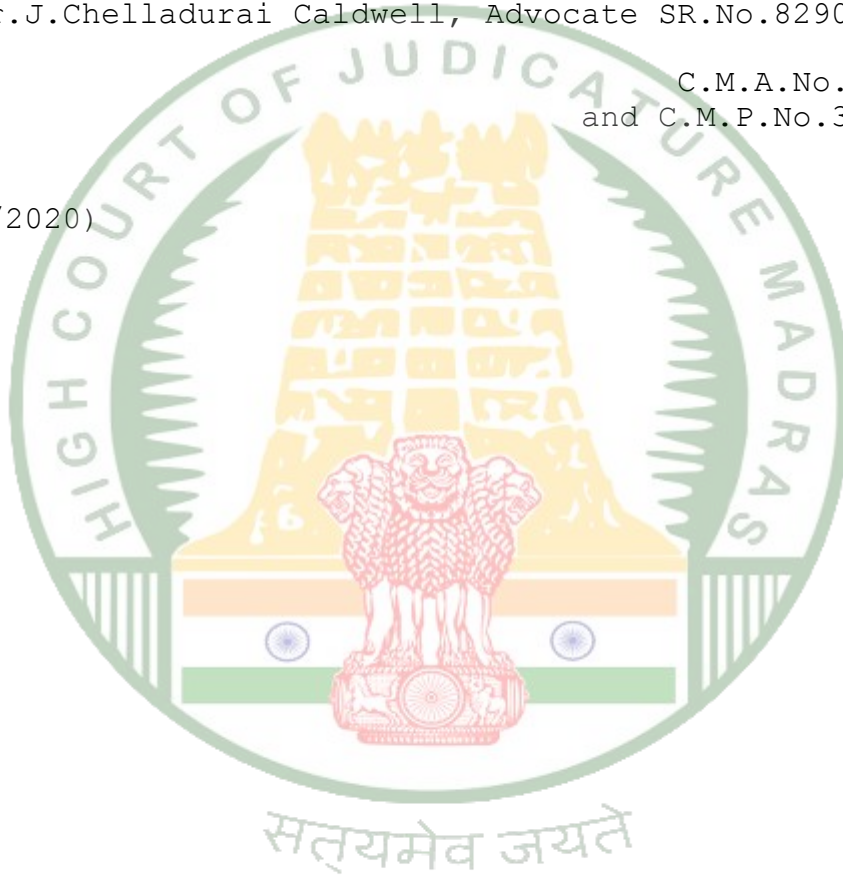
+1cc to Mr.Mukund R.Pandiyan, Advocate SR.No.8219

+1cc to Mr.J.Michael Visuvasam, Advocate SR.No.82594

+1cc to Mr.J.Chelladurai Caldwell, Advocate SR.No.82900

C.M.A.No.480 of 2017
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SR(CO)
GMY (28/02/2020)



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