



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

WEB COPY

C.M.A(MD) No.117 of 2019

and

C.M.P(MD) No.1389 of 2019

The Divisional Manager,
National Insurance Company Limited,
Bharathidhasan Salai,
Cantonment, Tiruchirappalli. ... Appellant/2nd Respondent

vs.

1.Saminathan

2.Panchavarnam

3.Minor.Shanthi

(Rep. by her natural guardian & next friend
Panchavarnam 2nd respondent)

4.Kanagavalli

...1 to 4 Respondents/Claimants

5.Ayilraj

...5 Respondents/1 Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, praying this Court to set aside the fair and decreetal order dated 21.09.2017 made in MCOP. No.444 of 2016, on the file of Motor Accident Claims Tribunal (Special District Judge for MCOP Cases), Trichy.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.N.Sudhagar Nagaraj
1 to 4

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the fair and decreetal order, dated 21.09.2017, passed in M.C.O.P.No.444 of 2016, on the file of the Motor Accident Claims Tribunal (Special District Judge for MCOP cases), Trichy.

2.The claimants have filed M.C.O.P.No.444 of 2016, claiming a sum of Rs.10,00,000/- as compensation for the death of one Anjalai, who met with an accident that occurred on 17.02.2016.

3.The appellant/second respondent has filed a counter statement on the aspect of negligence on the part of the deceased and also stating that the sum claimed by the claimants is excessive and without any basis.

4.The Tribunal, after analyzing the the evidence and documents, placed by both side, awarded a sum of Rs.9,48,000/- against the



claim of Rs.10 lakhs. Aggrieved by the said order, the appellant/insurance company has preferred this appeal.

5.Heard, Mr.S.Srinivasa Raghavan, learned counsel for the appellant and Mr.N.Sudhagar Nagaraj, learned counsel for the respondents.

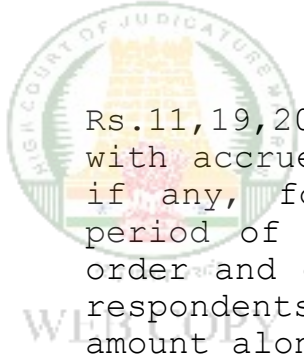
6.The main ground raised by the appellant herein is that the second and third respondents are not the legal heirs of the deceased Anjalai, to claim the compensation. The other aspect contented by the appellant/Insurance Company herein is that a sum of Rs.4,00,000/- is awarded towards loss of love and affection, which is highly excessive, without any basis and without any reason or evidence. Further, the notional monthly income determined by the Tribunal at Rs.6,000/- per mensem for the deceased, who aged about 55 years at the time of accident, is totally baseless and untenable.

7.Whereas, on the side of the respondents 1 to 4 / claimants, the learned counsel relied upon a case of **Andal and others Vs. Avinav Kannan and Another** reported in **2019(1) TN MAC 54 (DB)** and it is contended that in the said case that the notional monthly income of the deceased, who was aged about 48 years, was taken at Rs.13,750/-. Hence, following the said decision of the Hon'ble Division Bench, the notional monthly income as determined by the Tribunal in this case, is very low.

8.Considering the submissions made by the learned counsel for the appellant/Insurance Company as well as the respondents 1 to 4/claimants, the award passed by the Tribunal on various heads needs to be modified, which reads as follows:-

S.No	Heads	Award of the Tribunal	Award passed by this Court
1	Loss of Dependency	Rs.5,28,000/-	Rs. 6,29,200/-
2	Funeral and Transportation Expenses	Rs. 20,000/-	Rs. 20,000/-
3	Love and Affections for the respondents	Rs.4,00,000/-	Rs. 4,00,000/-
4	Conventional Damages	Nil	Rs. 70,000/-
	Total	Rs.9,48,000/-	Rs.11,19,200/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the appellant/Insurance Company is directed to pay a sum of Rs.3,58,850/- to each of the first and fourth respondents and a sum of Rs.1,69,400/- to the second respondent and a sum of Rs.2,32,000/- to the third respondent, totalling a sum of



Rs.11,19,200/- as compensation with interest at the rate of 7.5% with accrued interests and costs, less the amount already deposited if any, for the first, second and fourth respondents, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the first, second and fourth respondents are permitted to withdraw their share in the award amount along with proportionate accrued interests and without filing any formal application. Since the third respondent is minor, the appellant/Insurance company is directed to deposit aforesaid award amount in a nationalized bank till the third respondent attains majority and the second respondent/guardian mother of the minor third respondent is entitled to withdraw the accrued interest once in three months for the maintenance of the minor third respondent. After the minor third respondent attains majority, she can always withdraw her award amount in full. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

To:

The Motor Accident Claims Tribunal
Special District Judge for MCOP Cases,
Trichy.

+1cc to Mr.N.SUDHAGAR NAGARAJ, Advocate, SR.No.48921
+1cc to Mr.S.SRINIVASA RAGHAVAN, Advocate, SR.No.48910

C.M.A(MD) No.117 of 2019

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