



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **22.03.2019**

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
AND

THE HONOURABLE MRS. JUSTICE R.THARANI

C.M.A.(MD)No.203 of 2019
and
C.M.P.(MD).No.2729 of 2019

The Branch Manager,
M/s.Reliance General Insurance Company
80 Feet Road, Anna Nagar,
Madurai.

.. Appellant/Respondent No.2

Vs.

1.M.Kowsalya

2.M.Vinothini

3.M.Haribalan

4.V.Irulayee .. Respondents 1 to 4/Petitioners

5.A.Nepolian Britto .. Respondent No.5/Respondent No.1

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award and decree dated 13.09.2017 passed in M.C.O.P.No.476/2014 on the file of the Special District Judge/Motor Accidents Claims Tribunal (in-charge) of Madurai.

For Appellant : Mr.V.Sakthivel
For Respondents : Mr.K.Mahendran

JUDGMENT

[Order of the Court was made by **K.KALYANASUNDARAM, J**]

This appeal is directed against the award of the Motor Accident Claims Tribunal/Special District Judge, Madurai in M.C.O.P.No.476/2014.

2.The facts in brief are as follows:

A claim petition was filed by the legal heirs of the deceased V.Murugesan, claiming a compensation of Rs.80,00,000/-. The case of the claimants is that on 05.01.2014, the deceased was standing in a mud portion of a road and at that time, a Tata Indica Car driven by its driver in rash and negligent manner dashed against him. In that



3.The claim petition was resisted by the appellant by filing a detailed counter disputing the manner of accident and their liability to pay compensation.

4.In order to prove the case of the claimants, they examined 4 witnesses and marked 17 documents as Exs.P.1 to 17. However, on the side of the appellant, no witness was examined and no document was produced.

5.The Tribunal, after considering both the oral and documentary evidence, awarded a compensation of Rs.51,35,600/-. Assailing the award, the present appeal has been filed.

6. Heard Mr.V.Sakthivel, learned counsel for the appellant and Mr.K.Mahendran, learned counsel for the respondents.

7.Learned counsel for the appellant would submit that the award of the tribunal is excessive and exorbitant. However, the learned counsel for the claimants has argued in support of the finding of the tribunal.

8.This appeal has been preferred challenging the quantum of compensation. Hence, we need not elaborate on the finding on negligence.

9.Heard the rival submissions and perused the materials available on record.

10.It is not in dispute that the deceased was working as an Agricultural Officer at the Office of the Assistant Director of Agriculture, Seed Testing Laboratory in Madurai and he was drawing a salary of Rs.55,949/- per month. Ex.P.8 salary certificate shows the monthly income of the deceased and at the time of accident, he was 51 years 4 months.

11.The Tribunal, after deducting Rs.67,200/- towards income tax arrived at a sum of Rs.6,04,800/- as annual income, from which, $\frac{1}{4}$ th was deducted towards personal expenses and thus, a sum of Rs.4,53,600/- was arrived at as 'contribution to his family' and by applying 11 multiplier, a sum of Rs.49,89,600/- was arrived at towards loss of dependency, the Tribunal awarded a sum of Rs.1,46,000/- towards conventional damages. As per the recent decision of the Honourable Supreme Court reported in **2017 (2) TNMAC 609(SC) in the case of National Insurance Company Limited Vs. Pranay Sethi and others**, the claimants are entitled to a sum of Rs.70,000/- only towards conventional damages. Since the loss of dependency has been arrived at, based on the salary certificate and age of the deceased, the compensation awarded under the head of loss of dependency is confirmed and a further sum of Rs.70,000/- has been awarded towards conventional damages. In fine, the claimants are entitled for a sum of Rs.50,59,600/-. (Rupees fifty lakhs fifty nine thousand six hundred only).

12.In the result, this civil miscellaneous appeal is partly allowed, by reducing the award of the tribunal from Rs.51,35,600/- to Rs.50,59,600/-. No costs.



13. In view of the disposal of this appeal, the Insurance Company is directed to deposit the modified compensation with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount if any already deposited. Out of the award amount, the first claimant/wife of the deceased is entitled to a sum of Rs.20,60,000/-. The second and third claimants/children are entitled to a sum of Rs.12,00,000/- each. The fourth respondent/mother of the deceased would be entitled to a sum of Rs.6,00,000/-. On such deposit being made, the claimants are permitted to withdraw the entire amount with accrued interest and costs, less the amount already withdrawn if any, by filing an application before the Tribunal. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

vs

To

The Special District Judge
/Motor Accidents Claims Tribunal (in-charge),
Madurai.

+1 CC to M/s.V.SAKTHIVEL, Advocate (SR-56046[F] dated 22/03/2019)

+1 CC to M/s.K.MAHENDRAN, Advocate (SR-56063[F] dated 22/03/2019)

C.M.A. (MD) No.203 of 2019
22.03.2019

ES/KK/03.06.2019/3P/4C