



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2019

CORAM:

THE HONOURABLE **MR.JUSTICE K.KALYANASUNDARAM**
and
THE HONOURABLE **MRS.JUSTICE R.THARANI**

C.M.A(MD)No.640 of 2018
and
C.M.P.(MD)No7451 of 2018

M/s.Reliance India Insurance Company Limited,
Represented through its Branch Manager,
Vannarapettai,
South Bye-lass Road,
Tirunelveli Cuspa

... Appellant/3rd respondent

.Vs.

1.Ms.Chitra

2.Minor Otri Maharashi

3.Minor Sri Varshini Priyanga

4.Ms.Seethiammal

... Respondents/Petitioners

5.Mr.Rajkumar

6.Mr.Nataraj

7.Sriram General Insurance Company Limited.,
E2EPIP, RIIILO, Sitapura,
Jaipur, Rajesthan - 302 022.

... Respondents 5 to 7/
Respondents 1, 2 & 4

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 01.06.2016 made in M.C.O.P.No.26 of 2012 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Sankarankoil.

For Appellant	: Mr.V.Sakthivel
For R1 to R4	: Mr.V.Omprakash
For R7	: Mr.D.Sivaraman
For R5 & R6	: No Appearance

* * *

**JUDGMENT**

This appeal is directed against the Judgment and decree passed in M.C.O.P.No.26 of 2012, dated 01.06.2016 by the Motor Accident Claims Tribunal (Subordinate Judge), Sankarankoil.

2.The brief facts of the case:-

(i).The wife, minor children and the mother of the deceased Ramarpandian @ Kuselan, who died in a Motor vehicle accident on 15.04.2012 filed a petition claiming compensation of Rs.75,00,000/-. It is the case of the claimants that on 15.04.2012, the deceased was proceeding in his Maruti Alto car bearing registration No.TN 76 W 7677 from South to North direction near Tharani sugars. At that time, a lorry bearing registration No.TN 28 AY 1454, which was coming from opposite direction in a rash and negligent manner rammed the car. In the impact, the deceased sustained grievous injuries. Though he was admitted in the Government Hospital at Sivagiri, he succumbed to the injuries on the same day. The claimants would further state that the deceased was having driving schools at Sankarankovil, Vannikonenthal and Puliangudi and thereby earning a sum of Rs.20,000/- per month, however, due to the accident they lost their breadwinner.

(ii).The appellant resisted the claim petition disputing the manner of accident, the age and income of the deceased and it is stated that the claim was too high, excessive and arbitrary.

(iii).Before the Tribunal, the first claimant examined herself as P.W.1; one Muthupandian was examined as eye witness to the occurrence as P.W.2 and one A.S.Vijayalakshmi, Junior Assistant of Sankarankoil RTO Office was examined as P.W.3. Exs.P1 to P11 were marked. On the side of the appellant, no witness was examined and no document was filed. Ex.X1 is the letter received from the RTO Office.

3.The Tribunal, upon consideration of the oral and documentary evidence held that the driver of the lorry was responsible for the accident and awarded a compensation of Rs.20,00,000/-. Assailing the same, the present appeal.

4.Heard Mr.V.Sakthivel, learned counsel for the appellant; Mr.V.Omprakash, learned counsel for the respondents 1 to 4 and Mr.D.Sivaraman, learned standing counsel for the seventh respondent and perused the materials available on record.

5.As far as the negligence, P.W.1 has reiterated the averments made in the claim petition. P.W.2 is the defacto complainant and on his complaint, Ex.P1-First Information Report was registered.

accident

7. Considering the age and the avocation of the deceased, it could be appropriate to fix the notional income at Rs.9,000/- p.m. He is also entitled for additional 40% towards future prospects. Hence, the income is arrived at Rs.12,600/- per month (Rs.9000 + Rs.3600), from which, if 1/4 amount of Rs.3150/- p.m. is deducted towards his personal expenses, then the contribution to the family comes to Rs.9,450/- p.m. and by applying multiplier 15, the loss of income is arrived at Rs.17,01,000/- (Rs.9,450 x 12 x 15). In addition, the claimants are entitled for a sum of Rs.70,000/- towards conventional damages and another sum of Rs.5,000/- towards transportation charges. In total, the compensation would be arrived at Rs.17,76,000/-. Out of which, the claimants 1 to 3 are entitled a sum of Rs.5,00,000/- each and the fourth claimant is entitled for a sum of Rs.2,76,000/- along with proportionate interest and costs. The interest awarded by the Tribunal is confirmed.

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welfare of the minors. No costs. Consequently, connected Cicil Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

To
The Motor Accident Claims Tribunal,
(Subordinate Court), Sankarankovil.

+1 CC to M/s.V.SAKTHIVEL, Advocate (SR-61142[F] dated
16/04/2019)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-61147[F] dated
16/04/2019)

+1 CC to M/s.V.OM PRAKASH, Advocate (SR-61333[F] dated
16/04/2019)

rj2

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KM/ (30.05.2019) 4P 5C