



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.09.2020
CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

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C.M.A.No.1521 of 2013

The Divisional Manager,
United India Insurance Co. Ltd.,
Katpadi Road, TKM Complex,
Vellore-4.

... Appellant/R2

..Vs..

1. K.Malarkodi, W/o.Late. P.P.Kannan
2. Minor K.Govardhani, D/o.Late. P.P.Kannan
3. Minor K.Raman, S/o.Late. P.P.Kannan
- 4.Minor K.Lakshmanan, S/o.Late. P.P.Kannan
(Minors rep.by R1 K.Malarkodi)

.. Respondents1 to 4/ Petitioners

5. Christian Medical College Hospital,
Vellore. .. R5/R1

6. Vanitha, D/o.Late. P.P.Kannan
7. Kavitha, D/o.Late. P.P.Kannan
8. Vijay, S/o.Late. P.P.Kannan
9. Durairajan, S/o.Late. P.P.Kannan

... Respondents 6 to 9/
Respondents3 to 6

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 24.02.2012 made in MCOP. No.297 of 2011 on the file of the Motor Accident Claims Tribunal, (Additional District and Sessions Judge, FTC) Vellore.

For Appellant : Mr.S.Arunkumar

For Respondents: Mr.S.P.Yuvaraj - R1 to R4

M/s.Pandian Associates - R5

Mr.T.P.Prabhakaran - For R6 to R9

JUDGMENT

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the Insurance company challenging the impugned award dated 24.02.2012 passed by the Motor Accident Claims Tribunal (Additional District and Sessions Judge, FTC), Vellore in MCOP.No.297 of 2011.



2. The appellant/Insurance Company has filed this appeal only on the ground that the assessment of compensation made by the Tribunal under the impugned award is excessive and they have not challenged their liability to pay the compensation.

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3. The respondents 1 to 4 and 6 to 9 are the legal heirs of the deceased Kannan, who died on 27.08.2007 as a result of an accident caused by a bus bearing Registration No.TN 23 5305, owned by the 5th respondent viz., Christian Medical College Hospital (CMC Hospital) and insured with the appellant/insurance company.

4. The claimants/respondents 1 to 4 have preferred a claim before the Motor Accident Claims Tribunal, Vellore in MCOP.No.297 of 2011 seeking compensation for the death of Kannan.

5. The Motor Accident Claims Tribunal, under the impugned award, directed the appellant/insurance company and the 5th respondent/CMC Hospital to pay a compensation of Rs.13,01,104/- together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization and costs as compensation to the respondents 1 to 4 and 6 to 9/claimants, who are the wife, sons and daughters of the deceased Kannan. (The respondents 6 to 9, who are the two daughters and sons of the deceased, born through his first wife, were impleaded as parties before the Tribunal)

6. The break-up details of the compensation awarded by the Tribunal in favour of the respondents 1 to 4 and 6 to 9/claimants are as follows:

Head	Award passed by the Tribunal (Rs.)
Loss of income	10,99,104/-
Loss of consortium to the 1 st petitioner/wife	1,00,000/-
Loss of love and affection	1,00,000/-
Funeral expenses	2,000/-
Total	13,01,104/-

7. Aggrieved by the quantum of compensation awarded by the Tribunal, under the impugned award, the appellant/insurance company has preferred this appeal.

8. Heard Mr.S.Arunkumar, learned counsel for the appellant / Insurance company and ,Mr.S.P.Yuvaraj,learned counsel for the respondents 1 to 4, M/s.Pandian Associates, learned counsel for



12. In view of the decision of the Hon'ble Supreme Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another reported in 2009 (2) TNMAC 1 (SC), the Tribunal ought to have adopted the multiplier as applicable under the said judgment, which will be lesser than what was adopted by the Tribunal, under the impugned award.

Conclusion:

15. The Appellant/Insurance Company is directed to deposit the entire Award amount together with interest from the date of claim petition till the date of deposit and costs, as assessed by the Tribunal, after deducting the amount, if any, already deposited to the credit of MCOP.No.297 of 2011, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of the compensation amount to the respective bank accounts of the respondents 1 and 4 and 6 to 9/claimants through RTGS within a period of two weeks thereafter.

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17. In the result, this appeal is dismissed. There is no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
FTC, Vellore.

2. The Section Officer
V.R.Section, High Court of Madras.

+lcc to Mr.S.P.Yuvaraj, Advocate SR.No. 28693

C.M.A.No.1521 of 2013

A.SK(22.04.2021)