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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1209 of 2012

and

M.P.No.1 of 2012

The Divisional manager,
M/s. United India Insurance Co.Ltd.,
Door No.95, Big Street,1st Floor,
R.V.K.Building, 1st Floor,
Tiruvannamalai Town and District.

... Appellant/R2

Vs.

1.Tmt.Jayaseeli,

2.Minor.Logaprasalla

3.Minor.Nithis Kumar ...RR1 to 3/Petitioner 1 to 3
(Minors 2nd and 3rd are represented by their
mother/next friend/Guardian Jayaseeli)

4.Thiru. Pitchai. ... R4/Petitioner No.4

5.Chinnammal

6.P.Krishnan ...RR5 & 6/Petitioner V and R1

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 13.10.2011 made in M.C.O.P.No.884 of 2010 on the file of Motor Accident Claims Tribunal, District Judge, Tiruvannamalai District.

For Appellant : Mr.J.Chandran

For Respondents : Not ready in notice

JUDGMENT

Aggrieved against the judgment and decree by the Motor Accident Claims Tribunal, in M.C.O.P.No.884 of 2010, by which the Tribunal has fastened the liability on the Insurance Company and arrived at the quantum of Rs.7,18,000/- the Insurer/appellant is before this Court.



6. This Court has considered the submissions of the learned counsel for the appellant and perused the materials available on record.

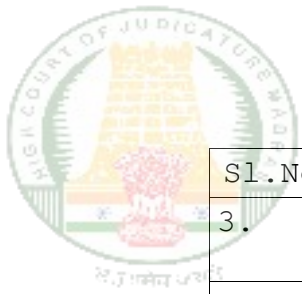
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7. It is seen that, from the evidence of P.W.2, Jayavel, the occurrence witness who would depose that on 05.09.2010, when the deceased Gabriel Arokiaraj was returning home, after purchasing articles, in the Srinivasa bus bearing Registration No.TN25F9703 and the deceased was standing on the front side foot board, when the bus going on Tiruvannamalai to Kallakurichi Road, at Valavachanur Pu.Uo.Sa.Nagar, Government Seed Farm, in a curve, the driver of the said bus drove in a rash and negligent manner, without sounding horn, and applied sudden brake, and due to the impact, the deceased lost his balance, and he was thrown out from the bus, and got grievous injuries on his left side head, right ear, right leg knee and all over the body and he was taken to the Tiruvannamalai Government Hospital in a serious condition and after severe treatment, he was taken to the Chennai Government Hospital, and there he died on 06.09.2011. The accident had taken only due to the rash and negligent driving of the first respondent's bus driver. The Tribunal has rightly taken note of the above aspects and fastened the liability on the appellant. There are no records to show that the appellant is not liable to pay compensation even before the Tribunal and before this Court.

8. As far as the quantum of compensation is concerned, as per Ex.P4, the deceased Gabriel Arokia Raj was aged about 35 years at the time of the accident. There is no contra evidence and the same is accepted. Accordingly, the multiplier of 16 is adopted. At the time of the accident, the deceased is said to have been doing Building Work (mason) and earning a sum of Rs.7,500/- per month. There is no evidence to prove the same. Considering the nature of avocation, the deceased would have earned a sum of Rs.4.500/- and he would have contributed a sum of Rs.3375/- to his family after meeting his personal expenses, as per the decision reported in 2009 (2) TNMAC SC 1 Smt.Sarala Verma and others Vs.Delhi Transport Corporation and another.

9. The Tribunal has awarded a sum of Rs.20,000/- towards loss of consortium and the same is hereby enhanced to Rs.40,000/-. The award passed by this Court under various heads is extracted hereunder:

Sl.No	Heads	Award amount
1.	Loss of earnings Rs.3375 X 12 X 16	6,48,000/-
2.	Loss of Consortium	40,000/-



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Sl.No	Heads	Award amount
3.	Loss of Love and Affection Rs.10,000 X 4	40,000/-
4.	Funeral Expenses & Transport Charges	10,000/-
Total		7,38,000/-

10. The quantum arrived at by the Tribunal was based on the evidence and documents produced. In view of the fact that nothing is forthcoming on the side of the appellant to offset the quantum arrived at by the Tribunal, the quantum arrived at Rs.7,18,000/- is hereby enhanced to Rs.7,38,000/-.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.7,18,000/- is hereby enhanced to 7,38,000/- together with interest at the rate of 7.5% per annum from the date of petition till date of deposit. The first respondent is entitled to a sum of Rs.2,30,000/- and the second and third respondents are entitled to get a sum of Rs.1,60,000/- each and the fourth and fifth respondents are entitled to get a sum of Rs.94,000/- each. The appellant/Insurance Company is directed to deposit the entire enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn, if any. The minor share amount shall be deposited in any one of the nationalized bank till they attain majority. The first respondent who is the mother of the minors / natural guardian shall withdraw the interest of minor share amount once in 6 months and spend the same for the welfare of the minors. The minors are at liberty to withdraw their share after attaining majority, after filing the formal petition before the Trial Court. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

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Sub Assistant Registrar



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To

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- 1.The District Judge,
Motor Accident Claims Tribunal,
Tiruvannamalai.
- 2.The Section Officer,
V.R Section,
High Court, Madras.

C.M.A.No.1209of 2012
and
M.P.No.01 of 2012

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