

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2382 of 2013

The United India Insurance Company Ltd.,
Neyveli.

... Appellant/3rd Respondent

..Vs..

1. Gayathri
2. Minor Sree Daaranai
3. Minor Sree Divya
4. Thamayandi
5. Thillaigovindan
6. Chandrasekar
7. M/s. Neyveli Lignite Corporation Ltd.,
Neyveli.

(Minor RR 2 & 3 are rep by their mother
and natural guardian 1st Respondent)

... Respondents/Petitioners 1 to 5 & RR1 & 2

Prayer: Civil Miscellaneous Appeals filed under Section 173 of
the Motor Vehicles Act, 1988, against the award and decree dated
18.09.2012 made in MCOP. No.26 of 2011 on the file of the Motor
Accident Claims Tribunal, Sub Court, Chidambaram.

For Appellant : Mr.D.Bhaskaran

For Respondents: Mr.S.Kumaradevan - R1 to R5

No appearance - R6

Mr.N.A.K.Sarma - R7

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 18.09.2012 passed by the
Motor Accident Claims Tribunal (Sub Court), Chidambaram in
MCOP.No.26 of 2011.

2. The appellant/Insurance Company has challenged the

impugned award both on the ground that they are not liable to compensate the claimants as well as on the quantum of compensation awarded to the claimants under the impugned award.

3. The Motor Accidents Claims Tribunal, under the impugned award, has awarded a compensation of Rs.12,78,000/- together with interest and costs to the claimants, who are the respondents 1 to 5 in this appeal.

4. The details of the award passed by the Tribunal in favour of the claimants are as follows:

Head	Award passed by the Tribunal (Rs.)
Loss of income	12,60,000/- (Rs.10,500/-x12x'15'-1/3)
Transportation	8,000/-
Funeral expenses	10,000/-
Total	12,78,000/-

5. Heard Mr.S.Bhaskaran, learned counsel for the appellant /Insurance company and Mr.S.Kumaradevan, learned counsel for the respondents 1 to 5 and Mr.N.A.K.Sarma, learned counsel for the 7th respondent.

6. Before the Tribunal, the claimants have filed ten documents, which were marked as Ex.A1 to Ex.A10 and one witness was examined on their side, namely, PW1 - Gayathri, wife of the deceased. On the side of the respondents, neither any witness was examined nor any document was filed before the Tribunal.

7. The deceased was a mason by profession. The accident had happened on 02.04.2010. The FIR (Ex.A1) was also registered only against the driver of the insured vehicle. The accident happened due to head on collusion between the motor-cycle bearing Registration No.TN 31 P 2864 in which the deceased was a rider and the Mahindra Jeep bearing Registration No.TN 31 BZ 9378, which was insured with the appellant/Insurance Company. It has been the consistent stand of the claimants that the accident happened only due to the rash and negligent driving by the driver of the Mahindra Jeep insured with the appellant/Insurance Company. No contra evidence has been produced by the appellant/Insurance Company before the Tribunal to rebut the contents of the FIR (Ex.A1) as well as the oral evidence adduced by PW1. This being the case, the Tribunal has rightly held that the driver of Mahindra Jeep, which is insured with the appellant/Insurance Company alone responsible for the cause of

the accident. Therefore, the first contention raised by the appellant in this appeal, questioning its liability has to be necessarily rejected.

8. The Tribunal, under the impugned award, has awarded a sum of Rs.12,78,000/- as compensation to the claimants together with interest and costs. The deceased was a mason and the date of the accident is 02.04.2010. The Tribunal has fixed the notional monthly income of the deceased at Rs.10,500/- The said assessment is on the higher side as no documentary evidence was produced by the claimants before the Tribunal to substantiate the said assessment. However, the Tribunal has not awarded any compensation towards loss of future prospects to the claimants, which they are legally entitled to in accordance with the settled position of law. Even though the assessment of notional monthly income by the Tribunal at Rs.10,500/- is on the higher side, if loss of future prospects was also awarded by the Tribunal, the total compensation assessed based on lesser monthly income will more or less match with the quantum of compensation assessed by the Tribunal, as per the impugned award. The compensation awarded by the Tribunal under various other heads, as observed earlier in this order, is also a just compensation and does not call for any interference by this Court. Taking into consideration the overall perspective of the claim, this Court is of the considered view that the compensation awarded by the Tribunal under the impugned award is a just compensation.

Conclusion:

9. For the foregoing reasons, this Court does not find any in this appeal. Accordingly, this Appeal shall stand dismissed.

10. The Appellant/Insurance Company is directed to deposit the 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.698 of 2008, 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 amount to the bank account of the respondents 1, 4 and 5 / claimants through RTGS within a period of two weeks thereafter. Insofar as the share of the second and third respondents/minor claimants are concerned, the same shall be deposited in a fixed deposit in any one of the Nationalized Banks till they attain the age of majority, and till such time, the interest accrued thereon shall be withdrawn by the guardian of the minor claimants once in three months, directly from the Bank. If they have attained the age of majority, it is open to them to file a formal petition before the Tribunal to get their share of apportionment.

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

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

Rli

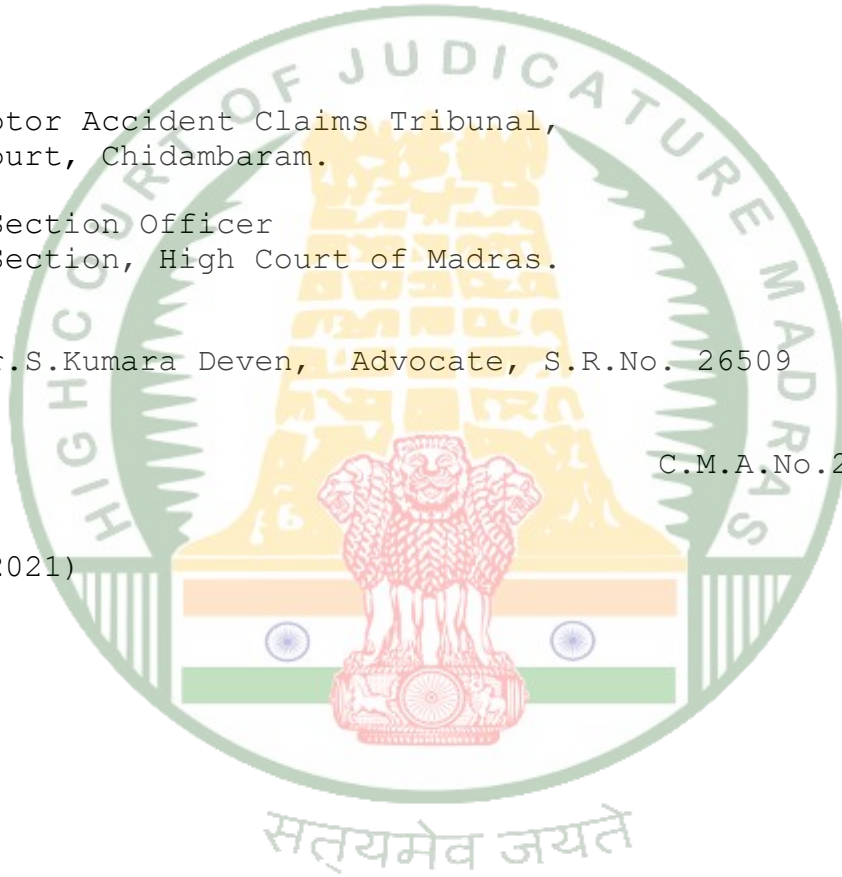
To

1. The Motor Accident Claims Tribunal,
Sub Court, Chidambaram.
2. The Section Officer
V.R.Section, High Court of Madras.

+lcc to Mr.S.Kumara Deven, Advocate, S.R.No. 26509

C.M.A.No.2382 of 2012

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