

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3011 of 2012

and

M.P.No.1 of 2012

The New India Assurance Co. Ltd.,
rep. By its Branch Manager,
514, 515, Gandhi Road, Kancheepuram.

... Appellant/3rd Respondent

..Vs..

1.M.Malarkodi
2. Minor Manikandan
3. Minor Surya
(R2 and R3 rep by his Natural Guardian
mother /1st Respondent)

4. Kathiradan
5. Kannammal ... Respondents 1 to 5/Petitioner
6. P.Chinnasamy
7. P.Maheswari ... Respondents 6 & 7/Respondents 1 & 2

(R6 and R7, were set exparte before the Lower Court, hence
notice to them may be dispensed with)

Prayer: Civil Miscellaneous Appeals filed under Section 173 of
the Motor Vehicles Act, 1988, against the judgment and decree of
the Motor Accidents Claims Tribunal-cum-Additional Sub Court,
Tirupur made in MCOP. No.1448 of 2008, dated 04.03.2011.

For Appellant : Mr.K.Mohan

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

JUDGMENT

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

This appeal has been filed by the appellant/insurance
company challenging the award dated 04.03.2011 passed by the
Motor Accident Claims Tribunal (Additional Sub Court), Tirupur
in MCOP.No.1448 of 2008.

Brief facts leading to the filing of this Appeal:

2. On 15.11.2008, when one Karuppasamy was driving in his moped from north to south direction at Kothari Road near Saru Ceramics, Mettupalayam, a lorry bearing Registration No. TN 28 AD 3670, owned by the 7th respondent and insured with the appellant, which was driven by its driver (i.e) 6th respondent and dashed against the moped. Due to the said impact, Mr.Karuppasamy was died. The legal representatives of the deceased Karuppasamy viz., respondents 1 to 5 preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the death of Karuppasamy.

3. The Tribunal, under the impugned award, directed the appellant /insurance company to pay a compensation to the respondents 1 to 5/claimants for a sum of Rs.8,65,000/- together with interest and costs as detailed hereunder:-

Sl.No.	Heads	Award
1	Loss of income	8,10,000/-
2	Funeral Expenses	5,000/-
3	Loss of Love and affection	50,000/-
	Total	8,65,000/-

4. Aggrieved by the award dated 04.03.2011 passed in MCOP No.1448 of 2008, this appeal has been preferred by the insurance company who is the insurer of the lorry.

5. Heard Mr. K.Mohan, learned counsel for the Appellant/insurance company and Mr.S.S.Swaminathan, learned counsel for the respondents 1 to 5. Respondents 6 & 7 were set exparte both before the Tribunal as well as before this Court.

6. Before the Tribunal, the claimants have filed 5 documents, which were marked as Ex.P1 to Ex.P5 and three witnesses were examined on their side viz., PW1- the wife of the deceased; PW2 and PW3 are the eyewitnesses to the accident. On the side of the respondents, neither any witness was examined nor any document was filed.

7. The claimants in their claim petition had claimed that the deceased was a coolie (labourer), who was earning an income for a sum of Rs.200/- per day which comes out Rs.5,000/- per month. However, the Tribunal has fixed the monthly income of the deceased at Rs.5,000/- The age and avocation of the deceased has also not been disputed by the appellant. The tribunal, under the impugned award, has categorically held that only due to the rash and negligent driving by the driver of the insured vehicle, the

accident had happened resulting in the death. The appellant/insurance company has also not challenged the findings of the tribunal as regards the negligence of the driver of the insured vehicle.

8. Considering the age of the deceased, who was 25 years, at the time of the accident and the year of the accident, which is of the year 2008, the assessment of the notional monthly income of the deceased at Rs.5,000/- per month is a reasonable sum. The assessment of compensation by the Tribunal under the impugned award under the various heads, is also in accordance with settled principles of law.

Conclusion:

9. For the foregoing reasons, there is no merit in the appeal. Accordingly, this appeal shall stand dismissed. The Appellant/Insurance Company is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited to the credit of MCOP.No.1448 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 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 deposits 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 the second respondent/minor claimant has attained the age of majority, it is open to him to file a formal petition before the Tribunal to get her share of apportionment. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

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To

1.The Additional Sub Judge,
The Motor Accidents Claims Tribunal,
Tirupur.

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

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No. 24996

C.M.A.No.3011 of 2012
and
M.P.No.1 of 2012

RSI (CO)
GN(19/12/2020)



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