



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.11.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.1121 of 2008

and

M.P(MD)No.1 of 2008

The Divisional Manager,
United India Insurance Company Limited,
Divisional Office - I,
Cantonment,
Tiruchirappalli

... Appellant/ 2nd Respondent

vs.

1.Malathi
2.B.Munirathinam Naidu

...1st Respondent/Petitioner
...2nd Respondent/ Respondent No.2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order and decree dated 29.02.2008 passed in MACOP No.584 of 2004 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Tiruchirappalli.

For Appellant : Mr.J.S.Murali
For Respondents : No appearance

J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tiruchirappalli in MACOP No.584 of 2004 dated 29.02.2008, the Insurance Company has filed this appeal.

2.The facts in brief are that on 20.11.1995, the deceased Chidambaram @ Elangovan was driving Ambassador car bearing No. TN-49-Z-3918 from Chennai to Trichy. Along with him, two other persons also travelled. When the car was proceeding near Siruganoor village, a jeep bearing registration No.AP-03-D-90, which came from the opposite direction driven by its driver in a rash and negligent manner, dashed against the car. In the impact, the driver Chidambaram @ Elangovan and one Elangovan died, while another passenger Balamurugan sustained injuries. The claimant is the unmarried sister of the deceased.

3. According to the claimant, at the time of accident, the



deceased Chidambaram @ Elangovan was 28 years and he was a bachelor and he was working as Driver. The claimant and her father are depending upon the income of the deceased. After this accident, the father of the deceased died on 27.04.2003. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the Jeep, the claimant laid a petition, claiming compensation of Rs.6,00,000/-.

4.Resisting the claim, the appellant/Insurance Company filed their counter disputing the manner of accident, age, avocation and income of the deceased and its liability to pay the compensation.

5.Before the Tribunal, to substantiate the case, on the side of the claimant, P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P6 were produced. On the side of the appellant/Insurance Company, no document was produced and no witness was examined.

6.The Tribunal, after considering the oral and documentary evidence held that the driver of the Jeep was responsible for the accident and awarded compensation of Rs.2,88,000/- along with interest at the rate of 7.5% per annum. Challenging the award, the appellant/Insurance Company filed the present appeal.

7.Mr.J.S.Murali, learned standing counsel for the appellant/Insurance Company would contend that at the time of filing the claim petition, the father of the deceased alive, but he was not impleaded as a party to the claim petition. He would further contend that the deceased was a bachelor, but the Tribunal has deducted only $1/3^{\text{rd}}$ from the income of the deceased instead of $1/2$. It is further contended that the multiplier is on the higher side and the proper multiplier is '17', but the Tribunal has adopted multiplier '18' to award compensation.

8.This Court has considered the submission of the learned standing counsel for the appellant/Insurance Company and perused the materials available on record.

9.The appellant/Insurance Company has filed this appeal only challenging the quantum and they have not disputed the manner of accident and their liability. Hence, it is not necessary to elaborate on other aspects.

10.A Perusal of the judgment of the Tribunal would show that the Tribunal after considering the postmortem Certificate (Ex.P.2) and the evidence of the claimant held that the deceased died at the age of 28 years and awarded Rs.2,88,000/- ($24000 \times 18 \times 2/3$) along with interest at the rate of 7.5% per annum to the claimant towards loss of income. Further, a perusal of the Ex.P.5, Legal Heir Certificate, would reveal that the claimant is the legal heir of the deceased.



11.The Tribunal has not awarded compensation under any other heads. It is to be further noted that monthly income of Rs.2000/- was taken to ascertain the loss of income. Indisputably, the deceased was a driver by profession and no addition has been made towards future prospects. Therefore, though the learned counsel for the appellant/Insurance company has contended that the award is on the higher side and it requires reduction, this Court is of the view that the award of the Tribunal cannot be said to be excessive or bonanza to the claimant.

12.In that view, the Civil Miscellaneous Appeal is dismissed. Since the appeal is dismissed, the appellant/Insurance Company is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

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To

1.TheMotor Accident Claims Tribunal,
Chief Judicial Magistrate, Tiruchirappalli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2C)

+1CC TO MR.J.S.MURALI, ADVOCATE, SR NO.21659

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