



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 04.12.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.194 of 2009

and

M.P. (MD) Nos.1 & 2 of 2009

The New India Assurance Company Limited,
Tuticorin Town,
(Through its Branch Manager) .. Appellant/Respondent No.2

vs.

1.Karuppayee
2.Minor Patchaikkanee
3.Minor Ramalakshmi
4.Minor Subbulakshmi

(Minor Respondents are
rep. by their mother and guardian
Karuppayee, 1st respondent)

5.Shanmugaam .. Respondents 1 to 5/
Petitioners 1 to 5

6.P.C.Saravanan .. Respondent 6/Respondent 1

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the award dated 17.09.2008 made in M.C.O.P.No.177 of 2007 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.2, Tuticorin.

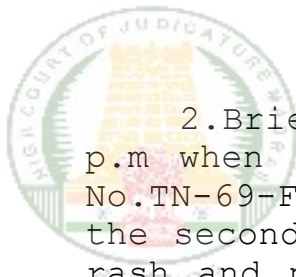
For Appellant :Mr.S.K.Murugesan

For R1 to R5 :Mr.A.Thiruvadikumar

For R6 :No Appearance

J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.177 of 2007, dated 17.09.2008, the appellant/Insurance Company has filed this appeal.



2. Brief facts of the case are that on 18.05.2006 at about 3.00 p.m when the deceased was boarding the bus bearing registration No.TN-69-F-8696 belonging to the first respondent and insured with the second respondent, the driver of the bus started the bus in a rash and negligent manner and hence, the deceased fell down from the frontside of the footboard and due to the impact, he sustained severe injuries on the head and other parts of the body and died on the spot. In this regard, a case in Cr.No.255 of 2006 under Section 304(A) has been registered by the jurisdictional police. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the bus, legal heirs, namely, the wife, children and mother of the deceased Pandi laid a petition, claiming compensation of Rs.8,00,000/-.

3. 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.

4. On the side of the claimants P.W.1 & P.W.2 were examined and Ex.P1 to Ex.P5 were marked. No witness was examined and no documents were marked on the said of the appellant/Insurance Company.

5. The Tribunal, after considering the oral and documentary evidence held that the driver of the bus was responsible for the accident and awarded compensation of Rs.5,80,000/- along with interest at the rate of 7.5% p.a. Challenging the award, the appellant has filed the present appeal.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. 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.

8. A Perusal of the judgment of the Tribunal would show that the Tribunal after considering the evidence of the witnesses and Exhibits held that the deceased died at the age of 35 years and his monthly income was Rs.3,750/-. After deducting the personal expenses of the deceased, the tribunal has awarded a sum of Rs.5,10,000/- to the claimants towards loss of income by applying multiplier '17' and another sum of Rs.25,000/- towards loss of Consortium and a sum of Rs.10,000/- each towards loss of love and affection and a sum of Rs.5,000/- towards funeral expenses and totally awarded a sum of Rs.5,80,000/- with interest at 7.5% p.a. 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 Tribunal has awarded a just and reasonable compensation.

9. In that view, the Civil Miscellaneous Appeal is dismissed, as devoid of merits. Since the appeal is dismissed, the appellant 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 being made, the respondents 1 & 5/Claimants 1 & 5 are permitted to withdraw the award amount as per the ratio of apportionment made by the Tribunal, by making necessary application before the Tribunal. The Tribunal shall deposit the share of the minor claimants 2 to 4/respondents 2 to 4 in any one of the Nationalized bank in a Fixed Deposit initially for a period of three years and renewable thereafter, till the minors attain majority. The mother of the minor claimants/1st respondent is permitted to withdraw the accrued interest once in three months directly from the bank. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar (CS)

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To

1. The Additional District Judge,
Motor Accident Claims Tribunal,
Fast Track Court No.2, Tuticorin.

2. The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

JUDGMENT MADE IN
C.M.A(MD) No.194 of 2009
04.12.2020

KM (19.01.2021) 3P 4C