



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 08.12.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A (MD) No.368 of 2009

and

M.P (MD) No.1 of 2009

The Oriental Insurance Co Ltd.,
rep. by its Branch Manager,
3217, East Main Street,
Pudhukottai.

.. Appellant/2nd Respondent

vs.

1.Karuppiah
2.Subbammal

.. Respondents 1 & 2/
Petitioners 2 & 3

3.S.Pitchai
4.M/s.Southern Roadways Ltd.,
13, Racquet Court Lane,
Cantonment, Trichy-1.

5.United India Insurance Co., Ltd.,
rep. by its Branch manager,
7-A, West Veli Street,
Madurai.

.. Respondents 3 to 5/
Respondents 1,3 & 4

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the award and decretal award dated 08.01.2007 in MCOP No.2473 of 2002, on the file of Motor Accidents Claims Tribunal/III Additional Subordinate Court, Trichirapalli.

For Appellant : Mr.K.Bhaskaran
For R1 & R2 : Mr.D.Srinivasaraghavan
For R5 : Mr.A.S.mathialagan
For R4 : No appearance
For R3 dismissed vide Court order dt.21.06.2017.

J U D G M E N T

The appellant challenges the award, dated 08.01.2007 passed by the Motor Accidents Claims Tribunal/III Additional Subordinate Court, Trichirapalli in M.C.O.P.No.2473 of 2002.



2. The claim petition was filed by one Ponnusamy, the son of the respondents 1 & 2 herein. According to the claimant, on 08.03.2002 at 00.30 hours, when he was travelling in a mini lorry bearing Registration No.TN-45-B-1063 belonging to the first respondent from Vaiyampatti to Trichirappalli, the vehicle was near Ammapettai it was driven rashly and negligently and dashed against the ongoing bullock-cart and then a lorry TTG-3821 belonging to the third respondent. As a result, he sustained multiple grievous injuries all over the body and immediately, he was taken to Government Head Quarters Hospital, Trichirappalli. After taking treatment as inpatient for 5 days, he got discharged and thereafter, he was admitted in Sudharsana Hospital, Trichirappalli, where, he underwent surgeries, bone crafting and skin crafting also done at the cost of Rs.75,000/-. Since, he died pending claim petition, his parents were came on record and pursued the claim petition.

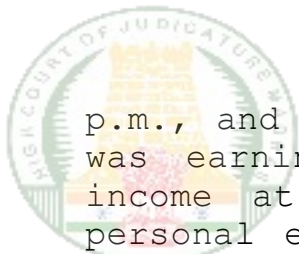
3. Resisting the claim, the appellant Insurance Company filed their counter disputing the manner of accident and its liability to pay the compensation.

4. To prove the case of the claimants P.W.1 to P.W.3 were examined and Ex.P1 to Ex.P9 were marked. On the side of the appellant, no witness was examined and no document was produced.

5. P.W.2 Rengasamy was examined as an eye witness to the accident and he has stated that on 08.03.2002 the mini lorry belonging to the first respondent in the claim petition was proceeding on Dindigul to Trichy highways and it was driven by its driver in a rash and negligent manner and hit against the bullock cart and lorry. Ex.-P1 FIR shows that a criminal case was registered against the driver of the mini lorry and he pleaded guilty and also paid a fine amount. The judgment of the Criminal Court was also marked as Ex.P3. On the basis of the evidence of P.W.2, Ex.P1 and Ex.P3, the Tribunal arrived at a conclusion that the driver of the mini lorry caused the accident.

6 P.W.1 the mother of the deceased gave evidence stating that her son died due to the injuries sustained in the accident. Ex.P8 is the wound certificate. Ex.P4 is the medical bill. Ex.P5 & Ex.P6 are the tests reports. Ex.P7 shows that he sustained grievous injuries and he was taking treatment for long duration and thereafter, he died. Therefore, this Court is not able to accept the contention of Mr.K.Bhaskaran, learned counsel appearing for the appellant that the death is not due to the accident.

7. P.W.1 would state that the deceased was earning Rs.5,000/-
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p.m., and he was loadman. Though, it is stated that the deceased was earning Rs.5,000/- per month, the Tribunal has taken the income at Rs.3,000/- p.m., and after deducting 1/3rd for his personal expenses, fixed the notional income at Rs.24,000/-. The Tribunal applied multiplier '13' taking the age of the mother and awarded Rs.3,12,000/- towards loss of income. In addition, Rs.5,000/- was awarded towards love and affection, Rs.5,000/- for funeral expenses and Rs.32,135/- for medical expenses on the basis of Ex.P4 & Ex.P5. Rs.6,365/- was awarded towards transportation. Totally, the Tribunal awarded a sum of Rs.3,60,500/- as compensation along with interest at the rate of 7.5% p.a.

8. After going through the evidences of P.Ws.1 to 3 and documentary evidence, this Court is of the opinion that the award of the Tribunal is reasonable.

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 & 2/Claimants are permitted to withdraw the award amount as per the ratio of apportionment made by the Tribunal, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

1.The Third Additional Subordinate Judge,
Motor Accidents Claims Tribunal
Trichirapalli.

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

+1 cc to Mr.D.Srinivasaraghavan , Advocate SR.No.24804

+1 cc to Mr.A.S.Mathialagan , Advocate SR.No.24834

JUDGMENT MADE IN
C.M.A (MD) No.368 of 2009
08.12.2020

KM (18.01.2021) 4P 6C