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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2021

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2097 of 2016

Thangavel (died)

2.T.Mageshwari

3.T.Gowripriya

4.T.Sandhiya (Minor)

(Represented by her mother
and next friend, the second
Appellant)

...Appellants/Claimants

(Appellants 2 to 4 brought on
record as legal representatives
of the deceased sole Appellant
vide order of this Court dated
11.02.2021 made in CMP.Nos.1745,
1746 & 1749 of 2021 in
CMA.No.2097/2016)

..Vs..

1.Jailabudden

2.Bharati AXA Insurance,
No.162, Metro Plaza, 2nd Floor,
Anna Salai, Chennai - 2.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988, against the Judgment and Decree
dated 06.01.2015 made in MCOP.No.527 of 2013 on the file of the
Motor Accident Claims Tribunal, (III Additional District Judge),
Poonamallee.

For Appellant
For Respondent 2

: Mr.K.Varadhakamaraj
: Mr.S.Arun Kumar

J U D G M E N T

This Civil Miscellaneous Appeal was originally filed by
the injured challenging the dismissal of his claim petition by
the Motor Accident Claims Tribunal (III Additional District
Judge), Poonamallee on 06.01.2015 in MCOP.No.527 of 2013.

2. During the pendency of this Appeal, the original



claimant died and the present Appellants 2 to 4 have been brought on record. The claim petition was filed by one Mr.Thangavel. The claim was dismissed by the Tribunal on the ground of lack of territorial jurisdiction.

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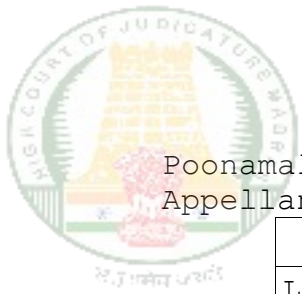
3. Heard Mr.K.Varadhakamaraj, learned counsel for the Appellants 2 to 4 and Mr.S.Arun Kumar, learned counsel for the second respondent.

4. The learned counsel for the second respondent insurance company fairly submits that even though the ground for dismissal of the claim petition is not correct, the present Appellants 2 to 4 as the legal representatives of the deceased Thangavel are only entitled for the loss of estate of the deceased Thangavel and are not entitled for compensation under various other heads that are normally granted to an accident victim. Learned counsel for the second respondent would also submit that the Appellants 2 to 4 are entitled for reimbursement of medical expenses incurred by the claimants and loss of earnings suffered by the deceased first Appellant as a result of the injuries sustained by the deceased first Appellant due to the accident. This Court is in agreement with the submissions made by the learned counsel for the second respondent as it is the settled position of law.

5. Before the Tribunal, the claimant has filed medical bills (Ex.P4) totally amounting to Rs.11,400/-. Therefore the compensation of Rs.11,400/- will have to be awarded to the Appellants towards reimbursement of medical expenses incurred by the accident victim (the original claimant). Insofar as loss of earnings is concerned, the accident victim was hospitalised for a period of 40 days due to the injuries sustained by him as a result of the accident caused by the insured vehicle. Considering the nature of injuries sustained by the accident victim and long period of hospitalisation, this Court is of the considered view that a compensation of Rs.28,000/- will have to be awarded to the claimants calculated at Rs.7,000/- per month for a period of four months. The accident victim was a labourer. Therefore, the fixation of notional monthly income at Rs.7,000/- is a correct assessment.

6. Insofar as other heads of compensation are concerned, the Appellants 2 to 4 who have been brought on record only during the pendency of this appeal due to the death of the original claimant, they are not entitled. Learned counsel for the Appellants has also not raised any serious objection for the submission made by the learned counsel for the second respondent Insurance company.

7. For the foregoing reasons, this Court set asides the impugned Judgment and Decree dated 06.01.2015 passed by the Motor Accident Claims Tribunal, (III Additional District Judge),



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Poonamallee and awards a compensation of Rs.40,000/- to the Appellants as detailed hereunder:

Heads	Award Amount (Rs.)
Loss of earnings	28,000/- (7000 x 4)
Medical reimbursement	11,400/-
Total	39,400/-
Rounded off to	40,000/-

8. With the aforesaid direction, this Appeal is Partly Allowed by granting a compensation of Rs.40,000/- to the Appellants 2 to 4 in the ratio of 2:1:1. The second respondent Insurance Company is directed to deposit the amount awarded by this Court together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit to the credit of MCOP.No.527 of 2013 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the amount lying to the credit of MCOP.No.527 of 2013 to the bank account of the Appellants 2 & 3 through RTGS as per the ratio apportioned within a period of one week thereafter. Since the fourth Appellant is a minor, her share of the award amount shall be deposited in interest bearing fixed deposit in any one of the Nationalised Banks, till she attains the age of majority. If the minor Appellant has attained the age of majority, it is open for her to file a formal petition to declare her as major. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The (III Additional District Judge),
Poonamallee.

2.The Section Officer

V.R.Section,High Court of Madras.

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No.23157

+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No.23184

C.M.A.No.2097 of 2016

LN(CO)

GN(12/10/2021)