



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)NO.1222 of 2010

and

M.P(MD)No.2 of 2010

WEB COPY

The United India Insurance Company Limited,
Manager,
Coimbatore

:Appellant/Third Respondent

.vs.

1.M.Pal Kannan

2.Ananamayil

:Respondent 1 and 2/Claimants

3.R.Durai

:Third Respondent/Ist Respondent

4.D.Mohammed Ali

:4th Respondent/2nd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree made in M.C.O.P.No.373 of 2001, dated 7.7.2005, on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Palani.

For Appellant

:Mr.A.S.Mathialagan

For Respondents

:Mr.P.Sathish Kumar

1 and 2

For Respondents

:Dismissed vide order

3 and 4

of this Court, dated
22.3.2013

JUDGMENT

This Civil Miscellaneous Appeal is filed by the appellant/Insurance Company challenging the award passed by the Motor Accidents Claims Tribunal-cum-Sub-Court, Palani in M.C.O.P.No.373 of 2001.

2.The brother and sister of the deceased Moorthi filed a claim petition in M.C.O.P.No.373 of 2001 claiming compensation of Rs.4 lakhs. According to the claimants, on 30.12.2000, at 8.00 p.m. when the deceased Moorthi was proceeding near Dindigul-Thadikombu Road, a lorry bearing Registration No.KSC 2009 hit against him. In the impact, he sustained injuries and died on the spot.They further stated that the deceased was a bachelor aged 26 years and he was earning Rs.150/- per day by doing Mason Work.

3.The claim petition was opposed by the appellant disputing the age, occupation and monthly income of the deceased. It is further stated that the deceased was solely responsible for the accident and hence, no liability can be fixed on the Insurance



Company.

4. During trial, the first claimant gave evidence as P.W.1 and narrated the manner of accident in his evidence and he also marked Ex.P1-First Information Report and Ex.P2-Postmortem Certificate. No contra evidence was adduced by the appellant. Hence the Tribunal, considering the evidence of the claimants came to the conclusion that the accident had happened only due to the driver of the lorry.

5. While deciding the quantum of compensation, the Tribunal found that the deceased was 25 year old and he was earning Rs.2400/- p.m. After deducting 1/3rd amount towards his personal expenses, the Tribunal fixed Rs.1,600/-p.m., as the contribution to the family. By applying '17' multiplier, a compensation of Rs.3,26,400/- was awarded for loss of income. Rs.10,000/- for loss of love and affection and Rs.2,000/- for funeral expenses was also awarded by the Tribunal. Totally, the Tribunal has awarded a sum of Rs.3,38,400/- as compensation to the claimants.

6. The learned counsel for the appellant contended that the Tribunal has erroneously awarded a sum of Rs.3,38,400/- as total compensation which is very high and the income taken by the Tribunal is without any basis. I am unable to agree with the submissions made by the learned counsel for the appellant for the reason that in the claim petition itself, it has been stated that the deceased was working as a Mason and he was earning a sum of Rs.150/- per day. Hence the monthly income of the deceased would come to Rs.4,500/- p.m, but the Tribunal has taken only Rs.2,400/-p.m., as his income. In my considered view, the award of the Tribunal is just, fair and reasonable and it does not require any interference by this Court.

7. In that view, the Civil Miscellaneous Appeal is dismissed, confirming the award of the Tribunal. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interest and costs from the date of claim petition till the date of realization, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants 1 and 2 are permitted to withdraw their share in the award amount with proportionate accrued interest and costs, less the amount already withdrawn, if any, as per the ratio of apportionment made by the Tribunal, by filing a formal application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is dismissed.

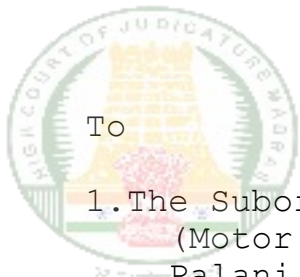
Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



C.M.A(MD)NO.1222 of 2010

To

1.The Subordinate Judge,
(Motor Accident Claims Tribunal),
Palani.

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

+1 CC to M/s.A.S.MATHIALAGAN, Advocate (SR-7547[F] dated 26/02/2021
)

C.M.A (MD) NO.1222 of 2010
and
M.P (MD) No.2 of 2010
25.02.2021

KB(16.03.2021) 3P 5C