



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2021

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

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C.M.A(MD) No.60 of 2010

and

M.P(MD)No.2 of 2010

The Branch Manager,
The New India Assurance Co., Ltd.,
Trichy. .. Appellant/Respondent No.2

vs.

1.Silambayee
2.Palaniswamy
3.Seetha @ Seethalakshmi .. Respondents/Petitioners
4.Vasanthan .. Respondent/Respondent-1

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to set aside the decree and judgment dated 14th day of August, 2008, made in M.C.O.P.No.183 of 2002 on the file of Motor Accident Claims Tribunal (Sub Court), Pudukkottai.

For Appellant : Mr.S.Subbiah for S.Manohar
For R1 to R3 : Mr.T.Lenin Kumar

J U D G M E N T

This appeal has been preferred by the appellant-Insurance Company questioning the award passed by the Motor Accident Claims Tribunal, Sub- Court, Pudukkottai in M.C.O.P.No.183 of 2002.

2. The legal heirs of the deceased Arumugam filed a claim petition seeking compensation of Rs.25,00,000/-. It is their case that on 10.02.2002 the deceased was returning from his brother's daughter's house by walk on Thanjavur main road, when he was nearing Mulloor Branch road, a lorry, belonging to the first respondent insured with the appellant herein, was driven by its driver in a rash and negligent manner and hit against him. In the impact, he sustained head injury and immediately, he was taken to Pudukkottai Government Hospital. Despite treatment, he succumbed to the injuries. The claimants have further stated that the deceased was 50 years old and he was earning Rs.10,000/- per month through agricultural and also by manufacturing bricks and he died only due to the negligence of the driver of the lorry and hence, they are entitled for the claim.



3. The appellant resisted the claim petition contending that the lorry was not involved in the accident which had taken place on 10.02.2002 and it was in the workshop from 08.02.2002 to 14.02.2002. It is also stated that the claim was exorbitant.

4. During trial, the claimant marked Ex.P1-FIR and Ex.P.4-judgment of the Criminal Court to show that the criminal case was registered against the driver of the lorry and he also pleaded guilty and paid the fine amount. Ex.P2 is the report of the Motor Vehicle Inspector. The appellant examined two witnesses, who are the private investigator and the employee of the Insurance Company. They marked the investigation report as Ex.R1.

5. Though it was stated that a complaint was given to CBCID to enquire into the involvement of the vehicle in the accident, but they were not able to produce any records to show the date of the complaint and the investigation carried out by the agency. After analysing the evidence produced by the claimants and the Insurance Company, the Tribunal came to the conclusion that the accident occurred only due to the negligence of the driver of the lorry. I find no illegality in the conclusion reached by the Tribunal for the reason that admittedly, the appellant did not produce any record to show that the claimants have come up with the false case.

6. Insofar as the quantum of compensation is concerned, though the claimants have stated that the deceased was earning Rs.10,000/- per month, but no evidence was produced to substantiate the same and hence, the Tribunal, has taken the income as Rs.1,200/- per month and after deducting Rs.400/- towards his personal expenses, held that he has contributed Rs.800/- to the family and by applying multiplier '11' awarded Rs.1,05,600/- for loss of income. The Tribunal awarded Rs.10,000/- for loss of love and affection, Rs.2,500/- for funeral expenses. In total, the Tribunal awarded a sum of Rs.1,18,100/- along with interest at the rate of 7.5% per annum.

7. As per the decision of the Hon'ble Apex Court in the case of **Sarla Verma v. Delhi Transport Corporation**, reported in **2009(2) TN MAC 1 (SC)** and **2017(2) TNMAC 609 (SC) [National Insurance Co. Ltd., v. Pranay Sethi]**, the proper multiplier is '13' and the claimants are entitled for Rs.70,000/- as conventional damages, but in the case, the Tribunal has awarded a sum of Rs.1,18,100/-. In view of the above fact, I find no merits in the case of the appellant and hence, the appeal is dismissed and the award of the Tribunal is confirmed. The appellant/Insurance company is directed to deposit the entire award amount with accrued interest and costs as directed by the Tribunal, 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 claimants are permitted to withdraw the award amount by making necessary application before the



Tribunal, less the amount already withdrawn, if any. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

To

1.The Subordinate Judge,
The Motor Accident Claims Tribunal,
Pudukkottai.

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

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-6858[F] dated 24/02/2021)

+1 CC to M/s.T.LENIN KUMAR, Advocate (SR-6830[F] dated 24/02/2021)

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23.02.2021

MJ(CO)

KB(05.03.2021) 3P 6C