



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12.02.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.219 of 2013

and

Cross Objection(MD)No.7 of 2015

and

MP(MD)No.1 of 2013

(1)CMA(MD)No.219 of 2013:-

Royal Sundaram Alliance Insurance
Company Limited,
T.V.S Co-operative Stores Building,
37, Krishna Rao Bank Street,
Madurai-1

: Appellant/2nd Respondent

Vs.

1.R.Lakshmi
2.R.Ranjithkumar
3.Minor R.Kanagavalli
4.Minor R.Karthick
5.Minor R.Ramya
6.K.Raju
7.R.Povunthai
8.C.S.Ganagurusamy
(minor Respondents 3 to 5 are
rep. their mother and next friend 1st respondent)

: R1 to R5/Petitioners 1 to 5

: R6 and R7/Petitioners 6 and 7
: 8th Respondent/R1

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Additional District Court/Fast Track Court No.2), Madurai, made in MCOP No.274 of 2010, dated 20.03.2012.

For Appellant

: Mr.S.Srinivasa Raghavan

For R1 to R7

: Mr.J.Ramamoorthy

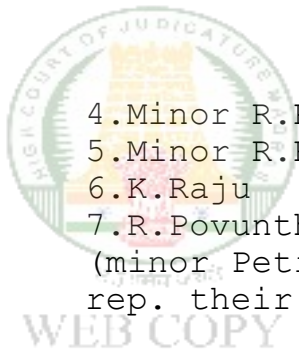
For 8th Respondent

: Mr.G.Marimuthu

(2)Cross Objection (MD)No.7 of 2015

1.R.Lakshmi
2.R.Ranjithkumar
3.Minor R.Kanagavalli

<https://hcservices.ecourts.gov.in/hcservices/>



4.Minor R.Karthick
5.Minor R.Ramya
6.K.Raju
7.R.Povunthai : Cross Objectors/Respondents/Claimants
(minor Petitioners 3 to 5 are
rep. their mother and next friend 1st Petitioner)

Vs.

1.Royal Sundaram Alliance Insurance
Company Limited,
T.V.S Cooperative Stores Building,
37, Krishna Rao Bank Street,
Madurai-1 : 1st Respondent/ Appellant/
2nd Respondent
2.G.S.Ganagurusamy : 2nd Respondent/R8/R1

PRAYER:- Cross Objection has been filed under Order 41 Rule 22 of the Civil Procedure Code against the award passed by the Motor Accident Claims Tribunal (Additional District Court/Fast Track Court No.2), Madurai, made in MCOP No.274 of 2010, dated 20.03.2012.

For Appellants : Mr.J.Ramamoorthy
For 1st Respondent : Mr.S.Srinivasa Raghavan
For 2nd Respondent : Mr.G.Marimuthu

COMMON JUDGMENT

CMA(MD)No.219 of 2013 is preferred by the Insurance Company against the award passed by the Motor Accident Claims Tribunal (Additional District and Sessions Court/Fast Track Court No.II), Madurai, made in MCOP No.274 of 2010, dated 20.03.2012, whereas the Cross Objection has been filed by the claimants for enhancement of compensation.

2.The short facts of the case is that on 24.12.2009 at about 16.00 hours, the deceased Rajayokkiam was riding his motor cycle TN-67-F-4495 on the left side of Kallikudi to Thirumangalam main road near Rajapalayam Vilakku. While being so, a Car TN-67-J-4466 came in a rash and negligent manner from the opposite direction and dashed against the motor cycl. Due to the impact, the deceased Rajayokkiam was thrown away and sustained multiple grievous injuries and succumbed to injury on the way to the hospital. The legal heirs of the deceased filed a claim petition seeking compensation of Rs.7,00,000/- on the ground that the driver of the offending vehicle was responsible for the accident.

3.The claimants have stated that the deceased was 39 years at the time of accident and he was doing Vegetable business and thereby he earning Rs.6,000/- per month. It is alleged that the said Rajayokkiam died only due to the negligence of the driver of the



4. In the counter filed by the Appellant Insurance Company, they disputed the manner of accident and their liability to pay compensation.

5. Before the tribunal, on the side of the claimants, 2 witnesses were examined and marked 4 documents. On the side of the Appellant Insurance Company, 1 witness was examined and 8 documents were marked.

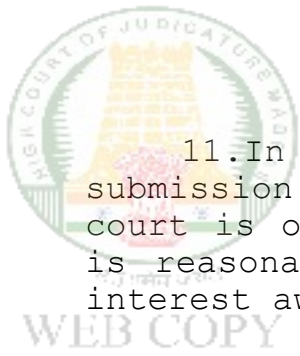
6. The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.4,70,000/- together with interest @ 9% p.a, to the claimants 1 to 5 and 7 and dismissed the claim petition in respect of the 6th claimant being the father of the deceased.

7. Heard both sides and perused the materials available on record.

8. Even though so many grounds were raised in the grounds of appeal, the learned counsel for the appellant Insurance Company mainly argued that the interest awarded by the tribunal for the compensation is on the higher side and that has to be reduced to 7.5% p.a and in other aspects, the appellant Insurance Company have no objection to confirm the award. On the other hand, the learned counsel for the Cross objectors/Claimants submitted that the award of the tribunal is on the lower side, hence, the compensation has to be enhanced to some extent.

9. It is not in dispute that the deceased was vegetable vendor and he was earning Rs.6,000/- per month. It is not in dispute that the deceased died at the age of 43 years. Since no reliable document has been produced to prove the income of the deceased, the tribunal has rightly the monthly income of the deceased at Rs.3,000/-. By applying multiplier '15' and after deducting 1/3rd from the salary of the deceased for his personal expenses, the tribunal has awarded Rs.3,60,000/- towards loss of income. Further, the tribunal has awarded Rs.15,000/- towards consortium to the 1st claimant; Rs.15,000/- towards loss of love and affection to the claimants 1 to 5 and 7 and Rs.5,000/- towards funeral expenses. In total the tribunal has awarded Rs.4,70,000/- together with interest at the rate of 9% p.a and dismissed the claim petition in respect of the 6th claimant being the father of the deceased, who is surviving along with the 7th the mother of the deceased.

10. It is the main contention of the learned counsel appearing for the appellant Insurance Company that they are only disputed the interest awarded by the tribunal at the rate of 9% p.a, instead of 7.5% .pa.



11.In view of the above facts and also considering the submission of the learned counsel appearing for the appellant, this court is of the view that the compensation awarded by the tribunal is reasonable one and the same is confirmed. With regard to the interest awarded by the tribunal, the same is reduced to 7.5% p.a.

12.Accordingly, this Civil Miscellaneous Appeal is partly allowed. The Cross Objection filed by the claimants is dismissed. The interest awarded by the tribunal is reduced to 7.5% p.a. In other aspects, the findings of the tribunal is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

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Sub Assistant Registrar(CS)

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To

1.The Motor Accident Claims Tribunal/
Additional District Court/Fast Track Court No.II,
Madurai.

2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai(2 copies)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-4804[F] dated 12/02/2021)

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-5805[F] dated 18/02/2021)

C.M.A(MD)No.219 of 2013
and Cross Objection(MD)No.7 of 2015
and MP(MD)No.1 of 2013
12.02.2021

SGS(CO)
TR(09.06.2021) 4P 6C