



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2021

CORAM:

THE HONOURABLE **MRS. JUSTICE R. THARANI**

C.M.A.(MD)No.577 of 2013

and

M.P.(MD)No.1 of 2013

WEB COPY

The Reliance General Insurance Co. Ltd.,
Nungambakkam,
Chennai - 600 006.

... Appellant / 2nd Respondent

Vs.

1.Ponnarasi
2.Lakshmanan
3.Nagajothi
4.Gayathri
5.Subramanian

... Respondents 1 to 4/ Petitioners

... 5th Respondent / 1st respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the order, dated 19.10.2011, made in M.C.O.P.No.1019 of 2008 on the file of the Motor Accident Claims Tribunal (Fast Track Court-I)- Additional District Judge, Tiruchirapalli and allow this civil miscellaneous appeal.

For appellant	:	Mr.S.Srinivasa Raghavan
For R1 to R4	:	Mr.A.Saravanan
For R5	:	No appearance

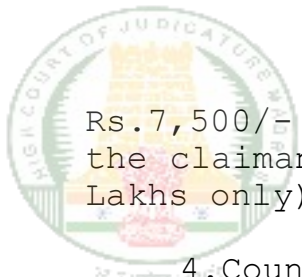
JUDGMENT

This Civil Miscellaneous Appeal is filed against the award passed by the Motor Accident Claims Tribunal (Fast Track Court-I)- Additional District Judge, Tiruchirapalli, in M.C.O.P.No.1019 of 2008, dated 19.10.2011.

2.The appellant herein is the second respondent, the respondents 1 to 4 herein are the claimants and the fifth respondent herein is the first respondent in M.C.O.P.No.1019 of 2008.

3.Brief substance of the claim petition, in M.C.O.P.No.1019 of 2008, is as follows:

On 14.12.2007, at about 05.30 p.m., when the deceased, viz., Manivannan, was riding his Bajaj motor cycle along the left side of Trichy-Karur main road, a lorry bearing Registration No.TN-32-B-3499 was driven by its driver in a rash and negligent manner from the opposite direction and dashed against the deceased. Due to the impact, the deceased/ Manivannan sustained fatal injuries and died on the spot. The accident has occurred due to the rash and negligent driving of the first respondent's lorry driver. The deceased was aged about 24 years and he was working as a Contract labourer under BSNL and he worked as a Car driver and he earned



Rs.7,500/- (Rupees Seven Thousand Five Hundred only) per month and the claimants claim a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) as compensation.

4.Counter filed by the second respondent (appellant herein), in M.C.O.P.No.1019 of 2008, is as follows:-

The driver of the first respondent vehicle is not responsible for the accident. The driver of the lorry drove the vehicle in a careful and cautious manner. It was the deceased, who suddenly crossed the road and caused the accident. The claim is excessive.

5.After hearing both sides, the Tribunal has awarded a sum of Rs.5,11,600/- (Rupees Five Lakhs Eleven Thousand and Six Hundred only) as compensation for the claimants. Against the same, the Insurance Company has filed this Appeal.

6.On the side of the appellant, it is stated that the Court has fixed the monthly income as Rs.3,000/- (Rupees Three Thousand only) and the same is excessive and that the accident did not take place due to the rash and negligent driving of the driver of the lorry and prayed the award to be set aside.

7.On the side of the claimants, it is stated that the award fixed by the Tribunal is reasonable and prayed the appeal to be dismissed.

8.A perusal of the records reveals that the F.I.R was filed against the driver of the lorry and the deceased was having valid driving licence, at the time of accident. The charge sheet was filed against the lorry driver, which was marked as Ex.P7. The rough sketch (Ex.P4) was marked on the side of the claimant. P.W.2/ Sivraj was examined as an eye witness. Evidence of P.W.2 and Exs.P4 and P7, revealed that the accident took place due to the rash and negligent driving of the driver of the lorry. Ex.P2 is the post mortem certificate. There is no dispute regarding the validity of the Insurance policy. The driving licence of the driver of the lorry was also marked as Ex.P5. Hence, the appellant / Insurance company is liable to pay compensation.

9.With regard to the quantum, though the deceased / Manivannan was stated to have earned a sum of Rs.7,500/- (Rupees Seven Thousand Five Hundred only) per month as income, the Tribunal has fixed only a sum of Rs.3,000/- (Rupees Three Thousand only) as monthly income, which is very reasonable.

10.In the above circumstances, there is nothing sufficient enough to interfere in the order of the Tribunal. Hence, this Civil Miscellaneous Appeal is dismissed and the award passed by the Motor Accident Claims Tribunal (Fast Track Court-I)- Additional District



Judge, Tiruchirapalli, in M.C.O.P.No.1019 of 2008, dated 19.10.2011, is hereby confirmed.

11.The appellant / Insurance Company, is directed to deposit the entire award amount along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and costs within a period of eight weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the respondents 1 to 4 / claimants are permitted to withdraw their respective shares as apportioned by the Tribunal. The Claimants are not entitled for interest for the default period if there is any default. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

To

1.The Motor Accident Claims Tribunal (Fast Track Court-I)-
Additional District Judge,
Tiruchirapalli.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.(2C)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-17469[F] dated 26/04/2021)

C.M.A. (MD)No.577 of 2013
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KK(21.06.2021) 3P 5C