



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.03.2021

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

C.M.A. (MD) No. 853 of 2013

and

M.P (MD) No.1 of 2013

Oriental Insurance Company Limited,
No.4, Bharathidasan Road,
Contonment, Trichy.

.... Appellant/2nd Respondent in M.C.O.P.

-Vs-

1.A.Nabisha
2.S.Dhoulath Bevi
3.Minor.A.Shakkila Banu
4.Minor.A.Barakath

(Respondents 3 and 4 are represented by
their natural guardian and mother/first respondent)

5.Tmt.Mymun Bevi ... Respondents 1 to 5/Petitioners in M.C.O.P.

6.P.K.Pushpa ... 6th Respondent/1st Respondent in M.C.O.P.
(Respondents 1, 2 and 5 are dismissed for
default by an order dated 26.06.2018)

Prayer: This Petition is filed under Section 173 of the Motor Vehicles Act, to set aside or modify the Fair and Decretal order made in M.C.O.P.No.556 of 2008 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Trichy, dated 27.11.2008.

For Appellant : Mr.C.Jawahar Ravindran

For R6 : No Appearance

JUDGMENT

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal, Principal District Judge, Trichy, in M.C.O.P.No.556 of 2008, dated 27.11.2008.

2.The brief facts of the case are that on 17.07.2007 at about 22.40 hours, when the deceased was riding his bicycle on the Madurai Road, Tiruchirappalli from south to north directions on the left



side of the road, while he was proceeding near Metro Furniture Shop, the driver of the lorry bearing Registration No.T.N.33/B-8868 belonging to the first respondent, came behind the deceased's cycle driven by its driver in a rash and negligent manner and dashed against the bicycle of the deceased. The deceased Abdulla was thrown off along with his bicycle and he sustained multiple injuries all over the body and severe injury on his hip. He was immediately taken to Tiruchirappalli Government Hospital for giving treatment. But he died on the same day. A criminal case in Crime No.215 of 2017 was registered against the driver of the offending vehicle by the North Traffic Police Station, Trichy. The claimants sought compensation of Rs.10,00,000/- from the respondents 1 and 2 with interest.

3.The claimants have stated that the deceased was working as Salesman in M/s.Shanthi Departmental House, Sri Rangam and he was earning Rs.6,000/- per month.

4.The claim was opposed by the appellant disputing the manner of accident and their liability to pay compensation.

5.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the sixth respondent/first respondent was responsible for the accident and as the sixth respondent/first respondent was insured with the appellant, the appellant/second respondent was liable to pay compensation amount and the Tribunal has awarded compensation of Rs.4,00,000/- with interest @ 7.5 % p.a.

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

7.The manner of the accident and the finding on negligence are not in dispute and the appeal is confined only to quantum of compensation awarded by the Tribunal.

8.It is contended by the learned counsel for the appellant that the tribunal has not applied the correct multiplier and the quantum of award is on the higher side, so the quantum is to be reduced. On the other hand, the learned counsel for the respondent 1 to 5/claimants submitted that the award is reasonable, which does not warrant any interference of this court.

9.In the instant case, it is not in dispute that the deceased was working as Salesman and he was 40 years old at the time of accident. But as per Ex.A.2-post-mortem certificate, the age was mentioned as 40 years. The first respondent/first petitioner has stated that the age of the deceased was 42 years. The Tribunal gave a finding that the age of the deceased was 42 years at the time of accident and he was earning Rs.6000/- p.a. cannot not be taken into



consideration, as there is no proof for the same. At the time of accident, the deceased was aged about 40 years and that was also taken into account and the appropriate multiplier is '15'. By applying the proper multiplier '15', the Tribunal awarded **Rs.25,000/-** towards loss of dependency. Further, the Tribunal awarded Rs.10,000/- towards loss of love and affection; Rs.10,000/- towards loss of consortium; Rs.5,000/- for funeral expenses. In total, the Tribunal has awarded **Rs.4,00,000/-** together with interest @ 7.5% p.a. payable to the respondents/claimants by the appellant/second respondent.

10.This Court is of the considered opinion that the award of the tribunal, based on the evidence, is reasonable and warrants no interference of this court and the same is confirmed.

11.In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award of the tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

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/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Principal District Judge,
Motor Accident Claims Tribunal,
Tiruchirappalli.
- 2.The Section Officer,
The Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

CMA (MD) No.853 of 2013
17.03.2021

MGJ(26.08.2021) 3P 3C