



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 25.11.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) .No359 of 2019

New India Assurance Company Limited,
Through its Ramnad Branch Manager,
High Sports Building 1st Floor,
Old No.147, New No.186, Salai Road,
Ramanathapuram-623 501.

... Appellant/Respondent No.3

Vs.

1.Santhi
2.Mahandhiran
3.Chitra
4.Seetha

... 1st to 4th Respondents/Petitioners

5.Ananth
6.Nagarajan

... 5th Respondent/1st Respondent
... 6th Respondent/2nd Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.30 of 2015 dated 20.08.2018 on the file of the Motor Accident Claims Tribunal, Sub-Court, Devakottai.

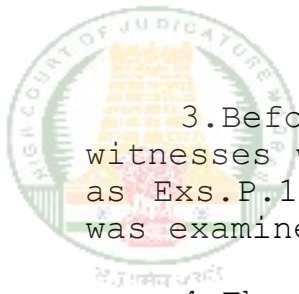
For Appellant :Mr.J.S.Murali
For R1 to R4 :Mr.A.L.Kannan
For R5 & R6 :No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree passed in M.C.O.P.No.30 of 2015, dated 20.08.2018 on the file of the Motor Accident Claims Tribunal, Sub-Court, Devakottai.

2.In the affidavit it is stated that the accident took place on 02.03.2014 at about 03.00 p.m., while the deceased was coming from Devakottai to his home through his motor cycle bearing Registration No.TN-05-P 2613, a lorry bearing Registration No.TN-65-R 3366 was coming from the opposite direction, driven by its driver in a rash and negligent manner and dashed against the deceased. Due to which, the deceased sustained grievous head injuries and on the way to hospital, the deceased died. The claimants of the deceased filed a claim petition in M.C.O.P.No.30 of 2015 seeking compensation of

Rs.23,57,000/-



3.Before the Tribunal, on the side of the claimants, two witnesses were examined as P.Ws.1 & 2 and six documents were marked as Exs.P.1 to P.6 and on the side of the respondents, one witness was examined as R.W.1 and one document was marked as Ex.R.1.

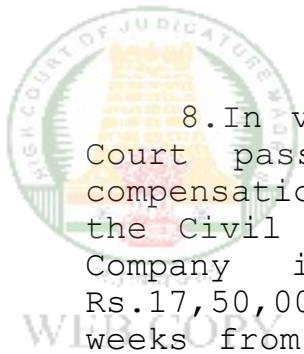
4.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced by the counsel for the claimants and the respondent and also on appreciating the evidence on record, held that the appellant/Insurance Company is directed to pay a sum of Rs.19,42,000/- as compensation. Aggrieved over the same, the appellant/Insurance Company has filed the present Civil Miscellaneous Appeal.

5.Heard Mr.J.S.Murali, learned counsel appearing for the appellant and Mr.A.L.Kannan, learned counsel appearing for the respondents 1 to 4 and perused the material documents available on record.

6.The learned counsel appearing for the appellant/Insurance Company submitted that without any proof the Tribunal had fixed the monthly income of the deceased as Rs.12,000/- per month, is contrary to law. At the time of accident, the deceased was running a Chicken Shop, but in this regard, no document has been filed to prove the same. The appellant/Insurance Company has also disputed the monthly income of the deceased fixed by the Tribunal, in the counter affidavit. Hence, he prays to modify the award of the Tribunal.

7.Since no document was filed by the claimants to prove the monthly income of the deceased, this Court is inclined to reduce the monthly income of the deceased at Rs.10,000/- and added 25% of the future prospects. Therefore, the compensation awarded by the Tribunal stands revised from Rs.19,42,000/- to Rs.17,50,000/- in the manner stated below:

S.No.	Description	Amount awarded by		Awarded by this Court
		Tribunal	This Court	
1.	Loss of Income	Rs.18,72,000/-	Rs.15,60,000/-	(Modified)
2.	Loss of love and affection of the first petitioner	Rs.40,000/-	Rs.1,60,000/- (each petitioner Rs.40,000/-)	(Modified)
3.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-	(Confirmed)
4.	For Ambulance	Rs.15,000/-	Rs.15,000/-	(Confirmed)
Total Compensation		Rs.19,42,000/-	Rs.17,50,000/-	(Reduced)



8.In view of the above, the judgment and decree of the trial Court passed in M.C.O.P.No.30 of 2015 are modified and the compensation is reduced from Rs.19,42,000/- to Rs.17,50,000/- and the Civil Miscellaneous Appeal is allowed in part. The Insurance Company is directed to deposit the modified amount of Rs.17,50,000/-, if already not deposited, within a period of six weeks from the date of receipt of a copy of this judgment, along with interest at the rate of 7.5% p.a. The claimants are permitted to withdraw their shares with accrued interests, as apportioned by the Tribunal. The excess amount, if any, shall be refunded to the appellant/Insurance Company. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

The Subordinate Judge,
The Motor Accident Claims Tribunal,
Devakottai.

COPY TO:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.J.S. MURALI, Advocate (SR-36098[F] dated 26/11/2021)

C.M.A. (MD) .No359 of 2019

25.11.2021

dks (CO)

GC(16.02.2022) 3P 5C