



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18.03.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.530 of 2014

1.Jailani
2.Minor Ani Babu
(Minor 2nd Appellant
is represented by her mother/
guardian the 1st appellant)
3.Umma Salima Beevi
4.Fathima Beevi : Appellants/Claimants

Vs.

1.S.Rajalakshmi
2.The Divisional Manager,
M/s.National Insurance Company Limited,
3, North Veli Street,
Madurai-1. : Respondents/Respondents

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 (Principal District Judge), Madurai, made in MCOP No.657 of 1999, dated 20.04.2001.

For Appellant 1 to 3 : Mr.P.Yasmin Begum

R4 : No Appearance

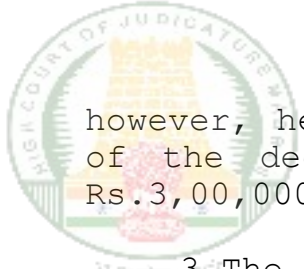
For 1st Respondent : No appearance

For 2nd Respondent : Mr.J.S.Murali

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award passed by the Motor Accident Claims Tribunal (Principal District Judge), Madurai, in MCOP No.657 of 1999, dated 20.04.2001.

2.The short facts of the case is that on 26.08.1998 at about 15.00 hours, in Madurai South Veli Street, when the deceased Sikkandar Batcha was proceeding in his bicycle, at that time, the Lorry TN-58-3669 came in a rash and negligent manner and hit against the bicycle. In that process, the deceased was thrown away along with his bicycle and sustained multiple injuries all over body and immediately, he was taken to the Government Rajaji Hospital,



however, he succumbed to injuries on the next day. The legal heirs of the deceased filed a claim petition seeking compensation of Rs.3,00,000/- for the death of the deceased Sikkandar Batcha.

3.The claimants have stated that the deceased was 27 years at the time of accident and he was a load man. It is alleged that the said Sikkandar Batcha died only due to the negligence of the driver of the Lorry.

4.In the counter filed by the 2nd respondent 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 witness was examined and marked 5 documents. On the side of the Insurance Company, no witness was examined and no document was marked.

6.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the Lorry was responsible for the accident and awarded compensation of Rs.1,64,000/- together with interest @ 9% p.a.

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

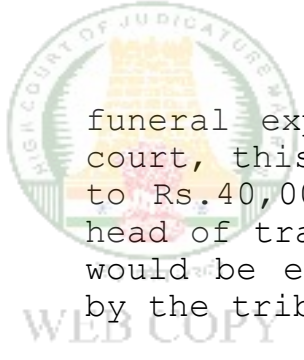
8.The learned counsel for the appellants/claimants mainly argued that the tribunal erred in awarding fair quantum of compensation and failed to award a fair compensation and the tribunal ought to have adopted correct multiplier and the award of the tribunal under the conventional heads are also on the lower side, hence, the award of the tribunal has to be enhanced.

9.On the other hand, the learned counsel for the 2nd respondent Insurance Company submitted that the award is reasonable, which does not warrant any interference of this court.

10.It is not in dispute that the deceased died at the age of 27 years. Based on the evidence and after proper deduction, the tribunal has fixed the monthly income of the deceased at Rs.1,200/- and by applying proper multiplier, at the relevant point of time, has awarded Rs.1,64,000/- towards loss of income. Further, the tribunal has awarded each Rs.10,000/- towards exgratia solatium to the claimants 1 and 2. In total, the tribunal has awarded Rs.1,64,000/- to the claimants along with interest @ 9% p.a.

11.It is seen from the records that based on the evidence, the tribunal has rightly fixed the loss of income of the deceased at Rs.1,64,000/-. Further, the tribunal has rightly awarded Rs.10,000/- each to the claimants 1 and 2.

12.It is to be noted that the tribunal has not awarded any compensation under the head of loss of consortium to the claimants 1 and 2 and also failed to award any amount towards transportation and



funeral expenses. Considering the facts and circumstances of this court, this court finds that the claimants 1 and 2 are each entitled to Rs.40,000/- towards loss of consortium and Rs.6,000/- under the head of transportation and funeral expenses. In total, the claimants would be entitled to Rs.2,50,000/-. In respect of interest awarded by the tribunal, it is reduced to 7.5% p.a.

13. In the result, this Civil Miscellaneous Appeal is partly allowed. The award of the tribunal is enhanced to **Rs.2,50,000/-** from Rs.1,64,000/-. The 2nd Respondent Insurance Company is directed to deposit the modified award amount together with interest @ 7.5% p.a. from the date of claim petition till the date of deposit, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such compliance, all the claimants are entitled to get their respective shares as per the apportionment of the tribunal with accrued interest and costs, without filing any formal petition before the tribunal. The claimants shall pay additional court fee for the enhanced amount. The 2nd respondent Insurance company is at liberty to get back the excess amount, if any available from the tribunal. No costs.

Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)

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To,

1.The Motor Accident Claims Tribunal/
The Principal District Judge, Madurai.

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

+1 CC to M/s.J.S.MURALI, Advocate (SR-12398[F] dated 19/03/2021)
CMA(MD)No.530 of 2014
18.03.2021

MGJ(10.08.2021) 3P 5C