



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A (MD) No.177 of 2015

and

MP (MD) No.1 of 2015

The Branch Manager,
Oriental Insurance Company Limited,
2nd Floor, Sri Vijay Complex,
Theni Post, Theni Taluk,
Theni District.

: Appellant/2nd Respondent

Vs.

1.Lakshmi
2.Vijayarani
3.Senthilkumar
4.S.Samydass

: R1 to R3/Petitioners 1 to 3
: R4/ 1st Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 11.10.2012 made in MCOP No.45 of 2012 on the file of Motor Accident Claims Tribunal (Principal District Court), Theni.

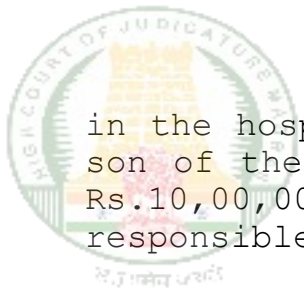
For Appellant : Mr.C.Ramachandran

For Respondents : No appearance

JUDGMENT

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal (Principal District Court), Theni, in MCOP No.45 of 2012, dated 11.10.2012.

2.The brief facts of the case are that on 11.12.2011, the deceased Ponmaran and his wife Lakshmi went to Cumbum to take part in the procession in respect of Mullai Periyar dispute at Cumbum. The deceased and his wife went in a motor cycle TN-58-H-8142. They were proceeding from K.K Patti to Cumbum. When the deceased turned to Cumbum Bus Stand road, the driver of the tractor TN-60-E-0464 along with trailer coming on the back, drove it in a rash and negligent manner and dashed on the motor cycle. Due to it, both of them fell down and the deceased Ponmaran sustained injuries on the back side of the head and left shoulder and his wife Lakshmi also sustained injuries on the head and right shoulder. They were taken to Government Hospital, Cumbum, however, the deceased Ponmaran died



in the hospital itself. The claimants, being the wife, daughter and son of the deceased filed a claim petition seeking compensation of Rs.10,00,000/- on the ground that the driver of the tractor was responsible for the accident.

3.The claimants have stated that at the time of the accident, the age of the deceased was 55 and he was doing Grains business and agricultural works and was earning Rs.5,000/- per month. A criminal case in Crime No.394 of 2011 was registered against the driver of the Tractor by Cumbum North Police.

4.The claim was opposed by the appellant Insurance Company 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 tractor was responsible for the accident and awarded compensation of Rs.3,51,000/- together with interest @ 7.5 % p.a. Aggrieved by the award of the tribunal, the appellant Insurance Company is before this court.

6.Heard the learned counsel appearing for the appellant and perused the materials available on record. There is no representation on behalf of the respondents.

7.Even though, so many grounds were raised in the grounds of appeal, it is mainly contended by the learned counsel for the appellant that the quantum of award is on the higher side, so the quantum is to be reduced.

8.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.

9.In the instant case, it is not in dispute that the deceased was 55 years old at the time of accident. Since no reliable document has been produced to prove the income of the deceased, the Tribunal fixed the monthly income of the deceased at Rs.4,500/- and after deducting 1/3rd towards personal and living expenses and by applying multiplier '9', awarded Rs.3,24,000/- towards loss of dependency. Further, the Tribunal awarded Rs.8,000/- towards loss of consortium and loss of love and affection, Rs.14,000/- towards loss of consortium to the claimants 2 and 3 and Rs.5,000/- towards funeral expenses. In total, the Tribunal has awarded Rs.3,51,000/- together with interest @ 7.5% p.a. 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.

10.In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award of the tribunal. No costs. Consequently,



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connected Miscellaneous Petition is closed. .

Sd/-

Assistant Registrar (CS I)

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Sub Assistant Registrar(CS)

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To

The Motor Accidents Claims Tribunal/
The Principal District Court, Theni.

Copy to:

The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court,
Madurai.(2c)

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