

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Date of Reservation	04.01.2021
Date of Judgment	30.03.2021

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CORAM:**THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**C.M.A(MD)Nos.408 and 409 of 2015andMP(MD)Nos.1 and 1 of 2015**(1) CMA(MD) No.408 of 2015:-**

The Superintendent of Police,
Commercial Crime Investigation Wing,
Anna Nagar, Chennai-40.

: Appellant/1st Respondent

Vs.

1.P.Maheswari
2.S.Jeyarani
3.P.Prabakaran
4.P.Jeyapriya
5.Ramalingam

: R1 to R4/Claimants
: R5/2nd Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under section 173 of the Motor Vehicles Act, against the award, dated 31.01.2014 made in MCOP No.153 of 2012 on the file of the Motor Accident Claims Tribunal (Principal District Court), Theni.

For Appellant : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

For R1 to R4 : Mr.S.P.Maharajan

For 5th Respondent : No appearance

(2) CMA(MD) No.409 of 2015:-

The Superintendent of Police,
Commercial Crime Investigation Wing,
Anna Nagar, Chennai-40.

: Appellant/1st Respondent

Vs.

1.P.Maheswari
2.Ramalingam
Respondent

: 1st Respondent/Claimant
: 2nd Respondent/2nd

PRAYER: Civil Miscellaneous Appeal has been filed under section 173 of the Motor Vehicles Act, against the award, dated 31.01.2014 made in MCOP No.151 of 2012 on the file of the Motor Accident Claims Tribunal (Principal District Court), Theni.



For Appellant : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

For 1st Respondent : Mr.S.P.Maharajan

For 2nd Respondent : No appearance

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COMMON JUDGMENT

Challenge made in these appeals is to the common award passed by the Motor Accident Claims Tribunal (Principal District Court), Theni, in MCOP Nos.151 and 153 of 2012 dated 31.01.2012.

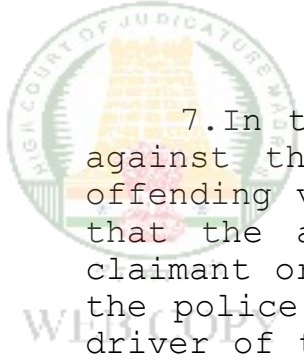
2.The brief facts of the case are that on 03.08.2012 at about 3.00 pm, the 1st respondent/P.Maheswari was travelling as a pillion rider along with her husband namely Periyamaya Thevar in the two wheeler TN-63-W-1446 (Hero Honda) on the main road of Usilampatti-Madurai and at the time, the Jeep TN-07-G-2422 belongs to the Police Department came in a rash and negligent manner and dashed against the two wheeler. In that process, the pillion rider P.Maheswari sustained injuries on her body and her husband was thrown out and he died on the spot. The legal heirs of the deceased Periyamaya Thevar filed a claim petition in MCOP No.153 of 2012 claiming compensation of Rs.12,00,000/-. Whereas the injured claimant namely P.Maheswari filed a claim petition in MCOP No.151 of 2012 claiming compensation of Rs. 6,00,000/-.

3.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the offending vehicle was responsible for the accident and awarded compensation of Rs.5,83,400/- in respect of MCOP No.151 of 2012 and Rs.8,76,360/- in respect of MCOP No.153 of 2012 together with interest @ 7.5% p.a. Challenging the common award of the tribunal, the Appellant(s) is before this court.

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

5.The dispute is in respect of quantum. The learned counsel appearing for the appellant/1st respondent argued that only due to the negligence on the part of the deceased, the accident took place and not due to the negligence on the part of the driver of the offending vehicle, but the tribunal fixed the entire negligence on the part of the driver of the offending vehicle, which is not correct and hence, they are not liable to pay compensation to the claimants.

6.But on the other hand, it is argued on the side of the respondents/claimants that only due to the negligence on the part of the driver of the offending vehicle, the accident took place and not due to the negligence on the part of the deceased and prays that the appellant(s)/1st respondent is liable to pay the compensation.



7. In this case, in respect of the accident, FIR was registered against the driver of the offending vehicle. The driver of the offending vehicle has not given any complaint to the police stating that the accident has occurred only on the part of the injured claimant or the deceased. Further, he has not sent any petition to the police official opposing registration of the FIR. Further, the driver of the offending vehicle was not examined. In this case, no contra evidence was let in on the side of the appellant(s)/1st respondent to prove that the accident occurred only due to the negligence on the part of the driver of the offending vehicle. Hence, it is held that only due to the negligence on part of the driver of the offending vehicle, the accident took place.

8. The next contention raised on the side of the appellant(s)/1st respondent is that the compensation awarded in both the cases by the tribunal is excessive and further, the claimant in CMA(MD) No.409 of 2015 has no functional disability and hence, the compensation awarded to the above claimant is on the higher side and prays that the Civil Miscellaneous Appeals have to be allowed.

9. On perusal of the award passed by the tribunal in respect of MCOP No.153 of 2012, the tribunal fixed the monthly income of the deceased at Rs.17,900/- and awarded Rs.8,13,360/- towards loss of income; Rs.15,000/- each for the claimants 2 to 4 towards loss of love and affection; Rs.5,000/- towards funeral expenses, totaling Rs.8,78,360/- together with interest at the rate of 7.5% p.a. The above amount awarded by the tribunal is reasonable and hence, it is no warrant interference.

10. In CMA(MD) No.409 of 2015, the claimant is the injured. The claimant during her evidence stated that due to the injuries sustained by her, it is not possible for her to continue her job. To disprove it, no contra evidence was let in on the side of the respondent/claimant. Considering the injuries sustained by the claimant, the tribunal came to the conclusion that it is not possible for the claimant to continue her work and has correctly awarded loss of income by applying multiplier method. Hence, the amount awarded by the tribunal under various heads is reasonable and it is not necessary to interfere the same.

11. In the result, both the Civil Miscellaneous Appeals are dismissed, confirming the common award passed by the tribunal. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

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To,

1.The Motor Accident Claims Tribunal/
Principal District Court,
Theni.

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

+1 CC to M/s.S.P.MAHARAJAN, Advocate (SR-14304[F] dated
30/03/2021)

C.M.A(MD)Nos.408 and 409 of 2015
30.03.2021

KK(03.06.2021) 4P 5C