



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2021

CORAM

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.575 of 2015

and

MP(MD)No.1 of 2015

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Oriental Insurance Company Limited,
by its Branch Manager,
Tirunelveli.

: Appellant/2nd Respondent

Vs.

- 1.Muthulakshmi
- 2.Minor Sudalaimani
- 3.Minor Mariappan
- 4.Minor Ponnuthurai
- 5.Minor Chokkammal

(Minor Respondents 2 and 3
represented by their mother
and guardian 1st respondent
Minor Respondents 4 and 5
represented by their stepmother
and guardian 1st respondent)

: R1 to R5/Petitioners

- 6.Sankarakrishnan

: R6/1st respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award, dated 01.04.2005 made in MCOP No.647 of 2004 on the file of the Motor Accident Claims Tribunal (2nd Additional District Court), Tirunelveli.

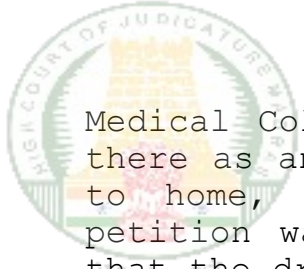
For Appellant	: Mr.K.Bhaskaran
For R1 to R5	: Mr.T.Selvakumaran
For 6 th Respondent	: Dispensed with, vide order, Dated 27.06.2018

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the award, dated 01.04.2005 made in MCOP No.647 of 2004 on the file of the Motor Accident Claims Tribunal (2nd Additional District Court), Tirunelveli.

2.The facts in nutshell:-

On the fateful day I.e., on 29.10.2000 at about 10.30 hours, when the deceased Chokkammal was standing on the extreme southern side of the road west to Murugankurichi Bus stop in front of Cathedral Church on the Tirunelveli-Trivandrum road at Palayamkottai, the Bajaji Motor Cycle TN-72-F-5593, which was driven by one Jesuraj, came in a rash and negligent manner and dashed against the deceased. In the accident, the deceased sustained multiple injuries and immediately she was taken to Tirunelveli



Medical College Hospital at Palayamkottai and admitted and treated there as an inpatient till 30.10.2002 and thereafter, she was taken to home, but on 31.10.2000, she succumbed to the injuries. A petition was filed claiming compensation of Rs.5,00,000/- alleging that the driver of the motor cycle was responsible for the accident.

3.The claim was opposed by the Insurance Company disputing the manner of the accident and their liability to pay the compensation.

4.Before the Tribunal, t on the side of the claimants, 3 witnesses were examined as PW1 to PW3 and Exs.P1 to P11 were marked. On the side of the Insurance Company, two witnesses were examined as RW1 and RW2 and 3 documents were marked as Exs.R1 to R3.

5.The Tribunal, after careful consideration of the evidence available on record, has awarded compensation of Rs.2,06,000/- together with interest at the rate of 9% p.a. Aggrieved over the same, the present appeal has been filed by the Oriental Insurance Company as appellant.

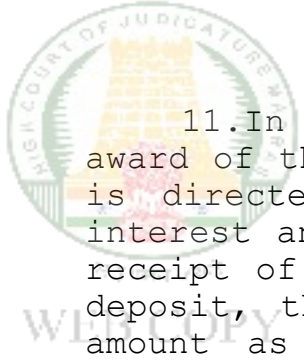
6.Heard both sides and perused the materials available on record.

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 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 respondents 1 to 5/claimants submitted that the award is reasonable, which does not warrant any interference of this court.

9.In the instant case, even though no reliable document has been produced on the side of the claimants, on the basis of the claim petition filed by the claimants, the tribunal has determined the age of the deceased as 51 years at the time of the accident. PW1 deposed that the deceased was doing tailoring business and thereby, she was getting Rs.4,500/- per month. But no document was filed on the side of the claimants to prove the avocation of the deceased. Even though, no reliable document was produced on the side of the claimants, the tribunal has determined the monthly income of the deceased at Rs.2,000/-. After deducting 1/3rd towards personal expenses and by applying multiplier '11', the tribunal has awarded Rs.1,76,000/- towards loss of income. Further, the Tribunal awarded Rs.30,000/- under conventional heads. In total, the Tribunal has awarded **Rs.2,06,000/-** together with interest @ 9% p.a.

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 fine, the Civil Miscellaneous Appeal is dismissed and the award of the Tribunal is confirmed. The appellant Insurance Company is directed to deposit the entire amount together with accrued interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the major claimants are permitted to withdraw the entire amount as apportioned by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

To

1. The Motor Accident Claims Tribunal/
II Additional District Court,
Tirunelveli.

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

+1 CC to M/s. T. SELVA KUMARAN, Advocate (SR-556[F] dated 08/01/2021)

+1 CC to M/s. K. BHASKARAN, Advocate (SR-471[F] dated 07/01/2021)

CMA (MD) No. 575 of 2015
07.01.2021

VR (CO)
KB (02.03.2021) 3P 6C