



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

CMA(MD)No.801 of 2015

1.M.Vimala
2.Minor M.Pavithran
3.Minor M.Dharani
4.Minor M.Dhanush Raja
5.R.Thanga Nadachi
(Minor Appellants 2 to 4
are represented by their
Mother-Guardian 1st appellant
M.Vimala) : Appellants/Claimants

Vs.

1.P.Manikandan
2.H.Manikandan
3.Sri Ram General Insurance Company Limited,
E-8, RHCO Industrial Area,
Cheettapura,
Jaippur,
Rajasthan.
4.Sri Ram General Insurance Company Limited,
Rep. by its Branch Manager,
25B2/15, SRC Complex,
2nd Floor, North Block,
S.N.Highways,
Tirunelveli.
5.S.Chinnakannan
6.Reeganraj
7.United India Insurance Company Ltd.,
rep. by its Branch Manager,
Micro Office, No.1/45 B-6,
2nd Floor, J.P.C Buildings,
Kulachel Road,
Monday Market,
Kanyakumari District,
Tamil Nadu. : Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 113 of Motor Vehicles Act, against the award, dated 20.03.2015



made in MCOP No.149 of 2013 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate), Nagercoil, Kanyakumari.

For Appellants : Mr.N.Sudhagar Nagaraj
For R1 and R2 : No appearance
For R3 and R4 : Mr.D.Sivaraman
For 5th Respondent : Mr.G.Aravinthan
For 6th Respondent : Given up
For 7th Respondent : Mr.I.Robert Chandrakumar

JUDGMENT

(Thro' VC)

Challenge made in this appeal is to the award, dated 20.03.2015 made in MCOP No.149 of 2013 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate), Nagercoil, Kanyakumari District.

2.The brief facts of the case are that on 10.02.2013 at about 21.20 hours, when the deceased R.Murugan was riding his bicycle from north to south of Anjugramam-Kanyakumari National Highways Road, near Mettukudieruppu junction, the JCB TN-74-R-1647, insured with Sriram General Insurance Company Limited, driven by its driver, came in a rash and negligent manner from the opposite side, and while taking turn, the JCB hit against Bajaji Pulsar Bike TN-74-M-1323, which was proceeding from north to south. Due to that impact, the Bajaji Pulsar Bike dashed against the bicycle ridden by the deceased, resulting which, he fell down, sustained injuries and subsequently, in-spite of taking treatment, he died on 14.06.2013. The claimants, being the legal heirs of the deceased sought compensation of Rs.40,00,000/- by filing claim petition before the tribunal.

3.The claimants have stated that at the time of accident, the deceased was working as a load man-cum-cleaner, thereby he was getting Rs.15,000/- per month and with regard to the alleged accident, a criminal case in Crime No.83 of 2013 was registered by the Anjugramam Police.

4.The claim was opposed by the respondents Insurance Companies 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 accident had occurred



due to the negligence of the drivers viz., driver of JCB and the rider of Bajaji Pulsar Bike and directed the respondents 1 to 4 to pay 50% of the compensation and remaining 50% was directed to be paid jointly or severally by the respondents 5 to 7 in the claim petition and awarded compensation of Rs.24,09,900/- together with interest @ 7.5% p.a. Being not satisfied with the award of compensation granted by the tribunal, the claimants are before this court as appellants.

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

7.The learned counsel appearing for the appellants/claimants argued that the tribunal has failed to consider that at the time of accident, the deceased was a load man and earning Rs.15,000/- per month and erroneously decided that the deceased earned only Rs.9,000/- per month and the award in respect of other heads are very low and prays that the award of the tribunal has to be enhanced. On the other hand, the learned counsel appearing for the respondents 3, 4, 5 and 7 submitted that the award of the tribunal is based on the evidence and it is also reasonable and hence, it has to be confirmed.

8.In the instant case, it is not in dispute that the deceased was working as a load man and he was 39 years old at the time of accident. The Tribunal fixed the monthly income of the deceased at Rs.9,000/- and by adding 30% towards future prospects and after deducting 1/4th towards personal expenses and by applying multiplier '15', awarded Rs.15,79,500/- towards loss of income. Further, the Tribunal awarded Rs.4,00,400/- towards medical expenses as per Ex.P4 and Rs.4,30,000/- under conventional heads. In total, the Tribunal has awarded **Rs.24,09,900/-** 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.

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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Kanyakumari District.

2.The Record Keeper-2 copies
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.D.SIVARAMAN, Advocate (SR-2069[F] dated 25/01/2021)

Judgment made in
CMA(MD)No.801 of 2015
25.01.2021

KM (04.03.2021) 4P 5C