



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A(MD)No.581 of 2018

and C.M.P(MD)No.6703 of 2018

WEB COPY

The Branch Manager,
Reliance General Insurance Company Limited,
D.No.55, Meenakshi Plaza 1st Floor,
80 Feet Road, Annanagar,
Madurai.

... Appellant/2nd Respondent

Vs.

1.Gandhimathi
2.Minor Sangeetha
3.Minor Deepalaxmi

... Respondents 1 to 3/
Petitioners 1 to 3

(RR 2 & 3 are rep. by their
mother/first respondent)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree, dated 12.04.2012 made in M.C.O.P.No.95 of 2009, on the file of the Motor Accident Claims Tribunal (Sub-Court), Aruppukottai.

For Appellant : Mr.K.Gokul

For Respondents : Mr.G.Mariappan

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

Challenging the award, dated 12.04.2012 made in M.C.O.P.No.95 of 2009, on the file of the Motor Accident Claims Tribunal (Sub-Court), Aruppukottai, the present Civil Miscellaneous Appeal is filed by the Reliance General Insurance Company with regard to quantum.

2.The claimants, who are the respondents, have filed the claim petition claiming compensation for the death of one late.Pethanasamy, who died in the accident that occurred on 19.05.2009. The respondents are the wife and children of the deceased Pethanasamy.

3.The brief facts relevant for the consideration of the above case are that on 19.05.2009, when the deceased was riding his bajaj



two-wheeler bearing Registration No.TN-67-F-0901, a car bearing Registration No.TN-67-B-5693, hit him behind the back and caused the accident resulting in his death. Hence, the claimants have filed a claim petition claiming a compensation of Rs.80,00,000/-.

4.Resisting the claim petition, the second respondent/Insurance Company has filed a counter affidavit contending that the accident had occurred only due to the reckless act of the deceased and the quantum of compensation claimed by the claimants is highly excessive and without any basis.

5.Before the Tribunal, on the side of the claimants, P.W.1 to P.W.3 were examined and Exs.P1 to Ex.P6 were marked. On the side of the appellant, R.W.1 and R.W.2 were examined and Ex.R1 was marked and also Ex.X1 was marked.

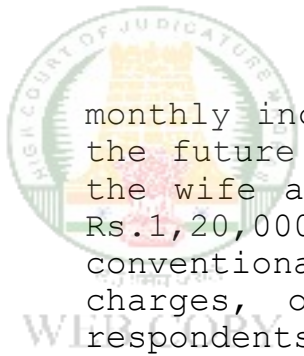
6.The Tribunal, after considering the oral and documentary evidence, held that the accident had occurred only due to the rash and negligent driving of the driver of the first respondent therein and that the deceased had sustained injuries and due to the impact, he died. The Tribunal further held that the appellant/Insurance Company is liable to pay compensation to the claimants and had awarded a total compensation of Rs.36,65,000/- under various heads.

7.The learned counsel appearing for the appellant/Insurance Company would submit that no sufficient documentary evidence was produced by the respondents to prove the avocation and income of the deceased at the time of accident. The learned counsel would further submit that the quantum awarded by the Tribunal is on the higher side.

8.The learned counsel appearing for the respondents/claimants would submit that the Tribunal had correctly awarded the compensation under various heads and the same need not be interfered with.

9.Heard the learned counsel appearing on either side and perused the materials available on record.

10.On a perusal of the materials available on record, it is seen that the deceased seems to be a lorry driver owning three lorries and the Tribunal had found that the income of each of the lorry arrives at Rs.10,000/- per month and accordingly, fixed the monthly income at Rs.30,000/-, which would comes to Rs.3,60,000/- per annum and after deducting 1/3rd amount for his personal expenses, the annual income would be Rs.2,40,000/-, applying '15' multiplier, it arrives at Rs.36,60,000/- (Rs.2,40,000 X 15) towards loss of earnings. Similarly, the amounts awarded under the other heads, viz., a sum of Rs.15,000/- towards funeral expenses, a sum of Rs.50,000/- towards loss of love and affection to the respondents. The sum of Rs.36,65,000/- is awarded to the respondents. The



monthly income fixed by the Tribunal is not altered by us, because the future prospects has not been added and also the consortium for the wife and loss of love and affection to the children should be Rs.1,20,000/-, but only Rs.50,000/- has been awarded. Even on the conventional heads viz., funeral expenses and transportation charges, only a sum of Rs.15,000/- is awarded and further the respondents/claimants have not preferred any appeal.

11.Considering the facts and circumstances of the case, we are of the opinion that the compensation awarded by the Tribunal need not be altered.

12.The rate of interest awarded by the Tribunal at 7.5% per annum remains unaltered.

13.In the result,

(i) This Civil Miscellaneous Appeal is dismissed, confirming the award, dated 12.04.2012 made in M.C.O.P.No.95 of 2009, on the file of the Motor Accident Claims Tribunal (Sub Court), Aruppukottai.

(ii) The appellant/Insurance Company is directed to deposit the award amount together with accrued interest and costs to the credit of claim petition, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made, the first respondent/first claimant is entitled to withdraw her share in the award amount as per the ratio of apportionment made by the Tribunal together with proportionate accrued interest and costs. The share of the minor claimants/respondents 2 and 3 are permitted to be kept in any of the Nationalised Bank in interest bearing fixed deposits, initially for a period of three years, renewable thereafter, till they attain majority and the guardian/first respondent is permitted to withdraw the interest amount from the above said fixed deposit, once in three months and utilize the same for the welfare of the minor children.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Motor Accident Claims Tribunal/
Sub Court, Aruppukottai.

2.The V.R Section (Records),
Madurai Bench of Madras High Court,
Madurai(2 COPIES) .

+1 CC to M/s.G.MARIAPPAN, Advocate (SR-8449[F] dated 03/03/2021)

+1 CC to M/s.K.GOKUL, Advocate (SR-8863[F] dated 04/03/2021)

C.M.A(MD)No.581 of 2018
02.03.2021

SSS(CO)

TR(17.03.2021) 4P 6C