



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04.03.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.796 of 2018

and

CMP(MD)No.8953 of 2018

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The Branch Manager,
M/s.United India Insurance Company Limited,
B.O.II, No.23E, E.V.R Road,
Puthur, Trichy.

: Appellant/2nd Respondent

Vs.

1.M.Dhanabal
2.Minor Gajalakshmi
3.Minor Deepak
4.Saraswathi
5.Ramalingam

: R1 to R5/Petitioners 1 to 5

(Minor Respondents 2 and 3
are represented by her
mother, natural guardian,
next friend Smt.Dhanabal
1st Respondent herein)

6.N.Vijaya Shankar

: 6th Respondent/1st Respondent

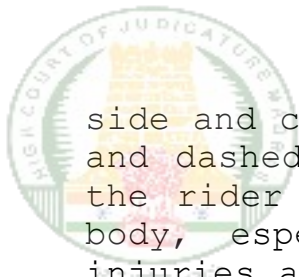
PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Special District Court), Trichy, made in MCOP No.1791 of 2014, dated 13.04.2018.

For Appellant	: Mr.C.Karthik
For R1 to R5	: Mr.C.Deepak
For 6 th Respondent	: No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal (Special District Court), Trichy, made in MCOP No.1791 of 2014, dated 13.04.2018.

2.The short facts of the case is that on 17.08.2014 at about 18.15 hours, the deceased Mahendran was travelled as a pillion rider in the Hero Honda Bike TN-48-Q-5628 and the rider of the bike on Johnson James drove the Bike on Trichy-Dindigul NH Road and when they were proceeding near Vellivadi at that time, the Bus TN-45-AT-4757 came in a rash and negligent manner and dashed on the bike in the same direction and turned the Bus towards western



side and crossed the center median and came in the wrong direction and dashed against the Bike. Due to the impact, the deceased and the rider were sustained multiple grievous injuries all over the body, especially the deceased had sustained multiple grievous injuries all over the body including severe head injuries. A claim petition was filed by the legal heirs of the deceased Mahendran, claiming compensation of Rs.25,00,000/- for the death of the said Mahendran.

3.The claimants have stated that the deceased was 30 years at the time of accident and he was working as Mason and Building Contractor, thereby he was earning Rs.20,000/- per month. It is alleged that the said Mahendran died only due to the negligence on the part of the driver of the offending vehicle.

4.In the counter filed by the Appellant Insurance Company, they disputed the manner of accident and their liability to pay compensation.

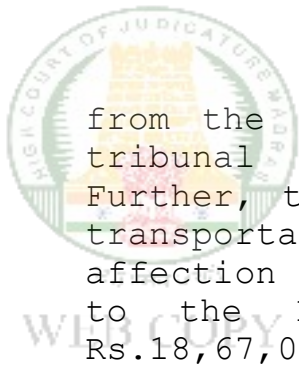
5.Before the tribunal, on the side of the claimants, 6 witnesses were examined and marked 20 documents. On the side of the Appellant Insurance Company, 1 witness was examined and Exs.X1 to X6 were marked through claimants side witnesses.

6.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.18,67,000/- together with interest @ 7.5% p.a.

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

8.The learned counsel for the appellant Insurance Company mainly argued that the tribunal erred in awarding higher quantum of compensation to the claimants and failed to award a fair compensation and the award of the tribunal under the conventional heads are also on the higher side, hence, the award of the tribunal has to be reduced. On the other hand, the learned counsel for the respondents 1 to 5 submitted that the award is reasonable, which does not warrant any interference of this court.

9.It is not in dispute that the deceased was working as Mason and also doing Building Contract Work. It is also not in dispute that the deceased died at the age of 30 years. Since no reliable document has been produced to prove the income of the deceased, based on the evidence, the tribunal has fixed the monthly income of the deceased at Rs.7,500/-. After adding 40% towards future prospects and by applying multiplier '16' and after deducting 1/4th



from the salary of the deceased for his personal expenses, the tribunal has awarded Rs.15,12,000/- towards loss of income. Further, the tribunal has awarded Rs.15,000/- towards funeral and transportation expenses; Rs.3,00,000/- towards loss of love and affection to the claimants 1 to 5; Rs.30,000/- towards consortium to the 1st claimant. In total, the tribunal has awarded Rs.18,67,000/- to the claimants along with interest @ 7.5% p.a.

10.Perusal of the award of the tribunal, the tribunal has rightly fixed the monthly income of the deceased at Rs.7,500/- and by applying proper multiplier and after deduction, arrived at the loss of dependency at Rs.15,12,000/-. In respect of conventional heads, as per the decisions in **Pranay Sethi and Megama Insurance case**, this Court awards Rs.40,000/- towards loss of consortium to the 1st claimant; Rs.40,000/- towards filial consotrium to the claimants 2 to 5; Rs.15,000/- for funeral expenses and Rs.15,000/- towrds loss of estate. In total, the claimants would be entitled for **Rs.17,42,000/-** together with interest at the rate of 7.5% p.a.

11.In the result, this Civil Miscellaneous Appeal is partly allowed. The award of the tribunal is reduced to **Rs.17,42,000/- from** Rs.18,67,000/-. The Appellant Insurance Company is directed to deposit the modified award amount together with interest @ 7.5% p.a. from the date of petition till the date of deposit, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such compliance, the 1st claimant is entitled to withdraw Rs.6,92,000/- and the claimants 4 and 5 are each entitled to withdraw Rs.1,25,000/- together with accrued interest and costs. The minor claimants 2 and 3 are entitled to Rs.4,00,000/- each. Insofar as the share of the minor claimants is concerned, the Tribunal is directed to deposit their share in any one of the Nationalised Bank, in a fixed deposit scheme initially for a period of three years renewable thereafter, till they attain majority. The 1st claimant/being the mother and guardian of minors is permitted to withdraw the accrued interest once in three months directly from the Bank for the welfare of the minor children. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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To

The Special District Court,
Motor Accident Claims Tribunal,
Trichy.

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

+1 CC to Mr.C.DEEPAK, Advocate (SR-8904[F] dated 04/03/2021)

Judgment made
in CMA(MD)No.796 of 2018
04.03.2021

KM(02.07.2021) 4P 5C