



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI
CMA (MD) Nos.1117 of 2021 and 160 of 2020 &
CMP (MD) No.2743 of 2020

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CMA (MD) No.1117 of 2021

- 1.Prema
- 2.Minor C.P.Aashika
- 3.Minor C.P.Iswarya

(Minors 2 and 3 represented by their
mother / natural guardian, 1st petitioner herein)

4.Aachiyammai ... appellants/ Petitioners
vs.

1.Gangatharan

2.Parthasarathy

3.The Oriental Insurance Company Limited,
Through its Branch Manager,
D.D.J.Complex,
Office at Opposite Vadasery Bus Stand,
Nagercoil,
Kanyakumari District. ... Respondents/ Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the Judgment and decree dated
25.01.2018 in MCOP.No.20/2015 on the file of the Motor Accidents
Claims Tribunal cum Chief Judicial Magistrate Court, Nagercoil.

For Appellants : Mr.G.Aravinthan
for Mr.S.R.Sathan Boopathy

For Respondents : Mr.C.Jawahar Ravindran for R3

CMA (MD) No.160 of 2020

M/s.The oriental Insurance Company
Ltd. Through its Branch Manager,
DDJ Complex Opp.to Vadasery Bus Stand,
Nagercoil,
Kanaykumari District ... Appellant / 3rd Respondent

Vs



- 1 Mrs.Prema
- 2 Minor.C.B.Ashika,
(Minor 2nd respondent rep.by the 1st Respondent/Mother)
- 3 Minor.C.B.Iswarya
(Minor 3rd respondent rep.by the 1st Respondent/Mother)
- 4 Achiammai .. 1st to 4th Respondent / 1st to
4th Petitioners
- 5 Gangadharan
- 6 Parthasarathi
(Respondent Nos.5 and 6 given up).
... 5th & 6th Respondents /
5th & 6th Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and decree dated 25.01.2018 in MCOP.No.20/2015 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate Court, Nagercoil.

For Appellant : Mr.C.Jawahar Ravindran

For Respondents : Mr.G.Aranvinthan for R1 to R4

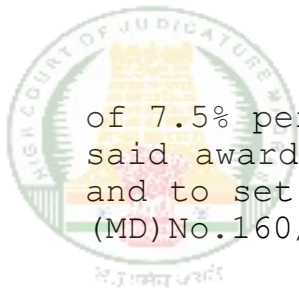
C O M M O N J U D G M E N T

The appeals in CMA(MD)No.1117/2021 and CMA(MD)No.160/2020 have been filed by the claimants and the Insurance Company respectively against the Judgment and decree dated 25.01.2018 in MCOP.No.20/2015 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate Court, Nagercoil.

2. For the sake of convenience, the parties are referred as per their ranking before the Tribunal.

3. On 08.11.2008, the deceased, namely, Chinnayan Pillai, was riding his TVS XL two wheeler bearing Registration No.TN 74 M 8913 from Kottar to Parakkai along Parakkai road. At that time, a mini bus bearing Registration No.TN 21 U 0837, came in a rash and negligent manner and dashed against the two wheeler, as a result of which, the deceased Chinnayan Pillai sustained grievous injuries and died in the Hospital. Hence, the claimants have filed MCOP.No.20/2015 claiming compensation for the demise of Chinnayan Pillai.

4. The Motor Accidents Claims Tribunal cum Chief Judicial Magistrate Court, Nagercoil after perusing the materials on record, awarded a sum of Rs.15,75,000/- together with interest at the rate



of 7.5% per annum, as compensation to the claimants. To enhance the said award amount, the claimants have filed CMA(MD)No.1117 of 2021 and to set aside the said award, the Insurance Company has filed CMA (MD)No.160/2020.

5. The learned counsel appearing for the claimants submitted that the Tribunal failed to add future prospects to the income of the deceased. The Tribunal erred in deducting 1/3rd of the income towards personal expenses. There are four dependants depending on the income of the deceased, hence, the Tribunal ought to have deducted 1/4th of the income towards personal expenses. He therefore, prayed for enhancement of the award amount.

6. The learned counsel appearing for the Insurance Company would submit that the Tribunal awarded an exorbitant amount of Rs.1,00,000/- towards loss of consortium to the wife of the deceased and prayed the same to be reduced to Rs.40,000/-. Rs.1,00,000/- each awarded to the children of the deceased and Rs.50,000/- awarded to the mother of the deceased towards loss of love and affection are also excessive. He would submit that only Rs.40,000/- each ought to be awarded to the children and mother of the deceased towards loss of love and affection. He therefore prayed for reducing the compensation awarded by the Tribunal.

7. A perusal of the order passed by the Tribunal shows that the Tribunal failed to add future prospects to the income of the deceased. The Tribunal also erred in deducting 1/3rd towards personal expenses. Since there are four dependants, 1/4th of the income ought to be deducted towards personal expenses. On the other hand, the Tribunal awarded excessive amounts to the claimants under the heads loss of consortium and loss of love and affection. After going through the facts and circumstances of the case, this Court is of the opinion that the compensation of Rs.15,75,000/- awarded by the Tribunal in total is just and reasonable. Hence, this Court is not inclined to disturb the award passed by the Tribunal.

8. Accordingly, these Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The Judgment and decree dated 25.01.2018 in MCOP.No.20/2015 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate Court, Nagercoil is hereby confirmed.

Sd/-

Assistant Registrar (CS-III)

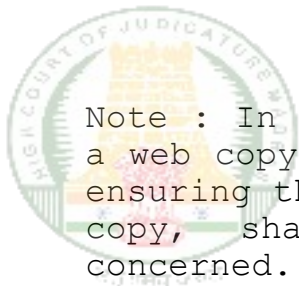
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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



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.

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To
The Motor Accidents Claims Tribunal
cum Chief Judicial Magistrate Court,
Nagercoil.

Copy to:
The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies

+1 CC to M/s.G.ARAVINTHAN, Advocate (SR-229[F] dated 04/01/2022)

CMA(MD)Nos.1117 of 2021 and 160 of 2020
03.01.2022

RD/CK(04.02.2022) 4P 5C