



C.M.A.(MD).No.359 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**CMA(MD) No.359 of 2020
and CMP(MD) No.4663 of 2020**

The Manager,
The Oriental Insurance Company Ltd.,
No.121(3) Raja Shopping Complex,
Opp to Panchamuga Vinayagar Koil
Paramathi Velur
Namakkal District

...appellant/
respondent No.2

Vs.

1.K.Jayasudha

2.Minor R.Srinighaa

3.P.Muniyammal

4.M.Palaniyappan

5.P.Kumar

... Respondents 1-5/
1-5 petitioners

6.R.Shanmugam

... 6th Respondent /
1st respondent



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(6th respondent remained exparte before the lower Court)

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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 12.02.2020 in MCOP No.303 of 2018 on the file of the Motor Accident Claims Tribunal cum District Court, Karur.

For Appellant : Mr.C.Karthick

For Respondents : Mr.K.Balasubramanian

for R1 to R4

No appearance for R5 & R6

J U D G M E N T

RMT.TEEKAA RAMAN, J.

This Civil Miscellaneous Appeal is directed against the award and decree dated 12.02.2020 made in MCOP No.303 of 2018 by the Motor Accident Claims Tribunal cum District Court, Karur.

2.Challenging the award of the tribunal on the ground of negligence, liability and quantum of compensation, the insurance company is before this Court with this appeal.



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3.The facts of the case in nutshell are as follows:

The claimants are the wife, minor daughter and parents of the deceased Ramesh. In a road accident that had occurred on 27.07.2018, the car bearing registration No.TN01 X 3231 was driven by deceased Ramesh. At that time, the lorry bearing registration No.TN28C7297 was driven in a rash and negligent manner dashed the car, as a result of which, the occupants of the car, including Ramesh sustained grievous head injuries and Ramesh succumbed to the injuries. At the time of accident, the deceased was working as a Manager in New Dheeran Corporation Finance Company, Velayuthampalayam and he was also a partner in credit company and also doing trading business, thereby, he earned a sum of Rs.3,14,705/- per annum. Thus, the claimants filed a claim petition in MCOP No.303/2018 2014 claiming compensation of Rs.1,00,00,000/-.

4. Before the tribunal, on the side of the claimants, the occupant of the car, namely, Palaniyappan, who is also father of the deceased, was examined as P.W.3 and marked Exs.P1 to P21. On behalf of the respondent Insurance Company, neither oral nor documentary evidence has been adduced.



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5. The Tribunal, considering the oral and documentary evidence adduced by the claimants, came to the conclusion that the accident had occurred due to the rash and negligent driving of the offending vehicle, which is insured with the appellant/insurance company and accordingly held that the offending vehicle and the insurance company are jointly and severally liable to pay the compensation. On the point of quantum of compensation, the tribunal, relied upon Ex.P7 to Ex.P12 income tax returns and income from other sources of the deceased, fixed the income of the deceased at Rs.3,14,705/-; the age of the deceased was 39 at the time of accident and hence, the tribunal adopted multiplier of 15; after deducting 1/4th towards his personal expenses, the monthly contribution would be at Rs.2,36,029/-. Accordingly, the loss of income was arrived at Rs.31,86,392/-. In *toto*, the tribunal awarded a compensation of Rs.34,66,392/- with 7.5% interest from the date of petition till the date of realization. Aggrieved by the liability fixed and award of compensation, the insurance company is before this Court with this appeal.



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6. We have heard the learned counsel for the appellant and the learned counsel for the respondents 1 to 4 and perused the materials available on record.

7. As far as the negligence aspect is concerned, the learned counsel for the appellant insurance company would contend that the driver of the car, namely, the deceased was at fault and hence, the negligence fixed by the tribunal may be set aside.

8. On the aspect of negligence, we have perused the Ex.P1-FIR, Ex.P4-charge sheet and the evidence adduced by the eye-witness, viz., P.W.3 to speak about the accident. He has clearly deposed that the driver of the offending vehicle was at fault and in the said accident, P.W.3 has also sustained injuries, for which, he has also filed a claim petition and the tribunal accordingly, awarded compensation. Hence, it is clear from Ex.P1-FIR, Ex.P4-chargesheet coupled with the evidence adduced by P.W.3 that the driver of the offending vehicle was at fault and hence, the ground that has been raised by the appellant insurance company has been negatived.



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9. On the point of quantum of compensation, taking into consideration the fact that income of the deceased from his business, his credit company and also his salary, the loss of income arrived at by the tribunal is just and proper and hence, no interference is warranted to the loss of income arrived. Accordingly, as per the decision of Sarla Verma, the multiplier adopted and also the deduction towards personal expenses of the deceased are also found to be in order. As far as the other conventional heads is concerned, the tribunal has awarded Rs.40,000/- towards consortium, each Rs.15,000/- for loss of estate and funeral expenses, Rs.10,000/- towards transportation and Rs.2,00,000/- for loss of love and affection to the claimants, viz., children and parents of the deceased and hence, the award of compensation is just and proper. Considering the facts of the case, we find that the computation of compensation awarded by the tribunal is in consonance with the decision rendered by the Hon'ble Supreme Court and in that view of the matter, we do not find any infirmity or illegality in the quantum of compensation awarded by the tribunal. As far as the respondent/No.5, namely, the brother of the deceased is concerned, as rightly considered by the tribunal, since his parents are live and he is not considered to be a



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dependant and he is not entitled for any compensation. Accordingly, no interference is warranted to the said finding rendered by the tribunal.

11. In the result, the Civil Miscellaneous Appeal is dismissed. If the entire award amount is not deposited, the appellant insurance company is directed to deposit the entire award amount along with interest, less the amount already deposited, within a period of eight weeks from the date of receipt of a copy of the judgment. On such deposit being made, the claimants/respondents 1, 3 and 4 are permitted to withdraw the entire award amount/their respective share, along with accrued interest as apportioned by the tribunal, less the amount already withdrawn, if any. The share of the minor/2nd respondent shall be deposited in a nationalized bank till the minor attains majority and the interest accrued thereon shall be withdrawn by the mother/natural guardian once in three months. No costs. Consequently connected Miscellaneous Petition is closed.

(T.K.R.,J.) (P.B.B.,J.)
24.11.2023

NCC : Yes/No
Index : Yes/No
RR



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To

1.The Motor Accident Claims Tribunal
cum District Court, Karur.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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AND
P.B.BALAJI, J.

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