



C.M.A.(MD).No.663 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 20.11.2023

Delivered on: 14.12.2023

CORAM:

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

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and

C.M.P.(MD)No.7720 of 2018

M/s.Reliance General Insurance Company Ltd.,
10/4/4, Thatta Plaza 2nd Floor,
South Bye Pass Road,
Vannarapet, Tirunelveli,
Tamil Nadu, through its Branch Manager,

... Appellant / Respondent No.2

Vs.

1.Masanapetchi Anitha @ Anitha

2.Muthulakshmi

... Respondents 1 &2 / Petitioners

3.Esakkiraja

... 3rd Respondent/1st Respondent

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the fair and decretal order, dated 28.03.2018, made in M.C.O.P. No. 22 of 2013, on the file of the Motor Accident Claims Tribunal (Additional District Judge), Virudhunagar.



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For Appellant : Mr.S.Srinivasa Ragavan
For Respondents : Mr.G.Prabhu Rajadurai for R1
: No appearance for R2 & R3

JUDGMENT

P.B.BALAJI,J.

The Insurance Company is the appellant before us. The Appeal is at the instance of the Insurance Company, aggrieved by the award in M.C.O.P. No.22 of 2013, on the file of the Motor Accident Claims Tribunal -Additional District Judge, Virudhunagar, dated 28.03.2018, to the tune of Rs.75,40,000/- towards compensation to the legal representatives of the deceased, one Balakrishnan.

2. The claimants are the married sisters of the deceased – Balakrishnan, who died in a motor accident, on 09.02.2012. According to the claimants, the accident arose because of the rash and negligent driving of the driver of the van, who was employed by the third respondent herein – first respondent in M.C.O.P. Proceedings. According to the claimants, their brother died as a Bachelor and he was aged about 29 years at the time of accident, at which point of time, he was working as Software Engineer and earning about 96,000/- p.m as salary. It is also specifically stated that



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the deceased was maintaining the family and even after the marriage of the claimants, then, they were the dependent on the income of the deceased.

3. The appellant, as second respondent in M.C.O.P proceedings, filed a counter statement stating that the claimants were not legal representatives / dependents of the deceased and therefore, the claim itself was not maintainable.

4. Before the Tribunal, the first claimant examined herself as P.W.1 and two witnesses, viz., Madhavan and Ravichandran were examined as P.W.2 and P.W.3 and 16 documents were marked as Ex.P1 to Ex.P16 on the side of the claimants. On the side of the respondents, one Banusundar was examined as R.W.1 and copy of the vehicle package policy certificate cum policy schedule dated 20.07.2011 was marked as Ex.R1.

5. The Tribunal found that the accident arose because of the rash and negligent driving of the first respondent driver (third respondent herein) and therefore, held that the first respondent (third respondent



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herein) and the second respondent (appellant herein) are jointly and severally liable to compensate the claimants. On the point of compensation, the Tribunal found that the claimants were the legal representatives of the deceased and they were entitled to claim compensation under Section 166 of the Motor Vehicles Act and proceeded to award compensation of Rs.75,40,000/- together with interest at 7.5% p.a from the date of filing of the petition.

6. The said award has been challenged by the Insurance Company mainly on the ground that the claimants were married sisters and they have not claimed to be the dependents of the deceased and therefore, the award itself was liable to be set aside, on this limited score. Though in the grounds of appeal, the quantum is also challenged, before us the learned counsel for the appellant would fairly submit that he is challenging the award mainly on the ground of entitlement of the claimants, being married sisters and they being not dependents of the deceased.

7. In view of the arguments advanced by the learned counsel for the appellant and there being no serious challenge to the findings of the



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Tribunal with regard to the liability, we do not deem it fit to interfere with the well considered finding, holding that the third respondent herein and the appellant are jointly and severally liable to pay compensation to the claimants, viz., respondents 1 and 2 herein.

8. With regard to the maintainability of the claim petition on the ground that the claimants were married sisters of the deceased and therefore, they cannot be claimed to the dependency on the deceased, we have heard Mr.S.Srinivasa Raghavan, learned counsel for the appellant and Mr.G.Prabhu Rajadurai, learned counsel for the first respondent.

9. The learned counsel for the appellant would contend that in the absence of financial dependency of the claimants on the deceased before the accident, no compensation can be awarded to them, treating them on par with Class – I legal heirs, namely, mother, widow and children. The learned counsel for the appellant would further submit that even the personal Hindu Laws never recognised a sister as a primary legal heir of a Bachelor and therefore, he would pray that the award of the Tribunal be set aside.



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10. Per contra, the learned counsel for the first respondent would place reliance on the following decisions:

(i) judgment of the Hon'ble Supreme Court in ***Smt.Manjuri Bera V. Oriental Insurance Company Ltd.***, reported in ***2007-1-TNMAC-385 (SC)***;

(ii) judgment of the Hon'ble Supreme Court in ***Hafizun Begum V. Md.Ikram Heque*** reported in ***2007-1-TNMAC-143 (SC)***; and

(iii) judgment of this Court in ***Anandha Lakshmi V. Tamil Nadu State Transport Corporation (Villupuram Divsion)***, reported in ***2017-1-LW-289***;

In all these cases, the Hon'ble Supreme Court as well as this Court, held that the claim of married sisters would be maintainable before the Motor Accident Claims Tribunal as long as it is shown that they were financially dependent on the deceased.

11. We have paid our anxious and careful consideration to the rival submissions advanced by the learned counsel on either side.



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12. In fact, one of us (**P.B.BALAJI.J.**) in *Virudhambal V. E.Muthulakshmi*, reported in **2023-2-TNMAC-29** relying on various judgments of the Hon'ble Supreme Court and also Division Bench of this Court, held that the term “legal representative” employed in Section 166 of M.V.Act was wide enough to cover a “married sister”, as the Motor Vehicles Act is a beneficial piece of legislation and if it is seen from the records that the claimants were financial dependents on the deceased, then they would be entitled to compensation.

13. In view of the various decisions relied on by the learned counsel for the first respondent / claimant and also several other judgments that have been referred in *Virudhambal's* case, referred herein above, the issue is no longer *res integra* and the married sisters are entitled to make a claim before the Motor Accident Claims Tribunal. In the instant case, the claimants have specifically averred in the petition that the first claimant was married before the accident. Though both the claimants were married before the accident, soon after the marriage of the second claimant, the accident occurred and at that time, both the claimants were depending on



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the income of the deceased. The evidence adduced by P.W.1 is also on the same lines and there is nothing much brought about in cross examination of P.W.1 to discredit their claim that the sisters were financially dependent on the deceased. Therefore, we find that the findings of the Tribunal are well considered, proper and do not deserve any interference.

14. Insofar as quantum, we have heard the learned counsel for the parties. There is no serious challenge to the quantum of compensation awarded and as fairly submitted by the learned counsel for the appellant Mr.S.Srinivasa Raghavan, the appeal was filed mainly on the ground that a married sister cannot maintain a claim for on the compensation.

15. That apart, we have also independently gone through the award of compensation by the Tribunal, under various head and they are in line with the ratio laid down in *Pranay Sethi's* case and *Sarla Verma's* case. We do not deem it fit to interfere with the same.

16. In fine, the Civil Miscellaneous is dismissed and the compensation awarded by the Tribunal is hereby confirmed.



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17. The appellant / Insurance Company is directed to deposit the modified award amount of Rs.75,40,000/ along with interest at the rate of 7.5% per annum from the date of claim petition, till the date of deposit, together with costs awarded by the Tribunal, less the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment.

18. On such deposit being made, the respondents 1 & 2 herein/ claimants are permitted to withdraw their respective award amounts along with interest and costs as apportioned by the Tribunal, less the amount if any already withdrawn by them, after filing appropriate application before the Tribunal. There shall be no order as to costs in the present appeal. Consequently, connected Miscellaneous Petition is closed.

(T.K.R.J.) & (P.B.B.J)
14.12.2023

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RMT.TEEKAA RAMAN, J.,
and
P.B.BALAJI,J

Ls

To

- 1.The Motor Accident Claims Tribunal
(Additional District Judge), Virudhunagar.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery judgment in
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