IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1358, 1359, 1364 and 1366 of 2021
And
C.M.P.Nos.6978, 6982, 7017 and 7027 of 2021

Royal Sundaram Alliance Ins. Co. Ltd.,
No.5, R1 Plaza, Katpadi Main Road,
Viruthampet,
Vellore – 612 006. ... Appellant in all the C.M.As.

Vs.

1.Srinivasan
2.Vishal
3.Shanmuga Sundaram
4.United India Insurance Co. Ltd.,
No.4, Royal City, Karur Road,
Trichy – 620 002.
5.Sampath
(3rd & 5th respondents remained exparte
and notice dispensed with for them)
... Respondents in C.M.A.1358/2021

1.Melvin Anto
2.Shanmuga Sundaram
3.United India Insurance Co. Ltd.,
No.4, Royal City, Karur Road,
Trichy – 620 002.
4.Sampath
(2nd & 4th respondents remained exparte
and notice dispensed with for them)
... Respondents in C.M.A.1359/2021

1.Radha
2.Shanmuga Sundaram
3.United India Insurance Co. Ltd.,
No.4, Royal City, Karur Road,
Trichy – 620 002.
4.Sampath
(2nd & 4th respondents remained exparte
and notice dispensed with for them)
... Respondents in C.M.A.1364/2021

1.Subashini
2.Shanmuga Sundaram
3.United India Insurance Co. Ltd.,
No.4, Royal City, Karur Road,
Trichy – 620 002.
4.Sampath
(2nd & 4th respondents remained exparte
and notice dispensed with for them)
... Respondents in C.M.A.1366/2021

Common Prayer:

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree in M.C.O.P.Nos.222, 224 and 223 of 2014 and 536 of 2015 respectively, dated 12.11.2018 on the file of the Motor Accidents Claims Tribunal (Principal District Judge) at Perambalur.

For Appellants : Mr.M.Krishnamoorthy
in all the C.M.As.

For Respondents : Mr.M.Logesh for R1 and R2
M/s.D.Bhaskaran for R4
in C.M.A.No.1358 of 2021

Mr.M.Lokesh for R1

M/s.D.Bhaskaran for R3
in C.M.A.Nos.1359, 1364, 1366 of 2021

COMMON JUDGMENT

The fourth respondent Insurance Company before the Motor Accidents Claims Tribunal, is the appellant herein. These appeals have been filed against the judgment and decree in M.C.O.P.Nos.222, 224 and 223 of 2014 and 536 of 2015 respectively, dated 12.11.2018 on the file of the Motor Accidents Claims Tribunal (Principal District Judge) at Perambalur.

2.Since the issue involved in these civil miscellaneous appeals are interrelated, they are heard together and disposed of by way of a common judgment. For brevity and clarity, the parties are referred to by their names.

3.The brief facts of the case is that on 05.02.2014 at about 10.30a.m., Jeyashree Srinivasan, Radha, Melvin Anto, Subashini were travelling in a Tata Indica Car bearing Registration No.TN 48 U 8489 in the Trichy – Lalgudi Main Road from West to East near Akilandapuram Bazar. At that time, the driver of the Lorry bearing Registration No.TN 45 6946 which came in the opposite direction drove the vehicle in a rash and negligent manner and dashed against the Tata Indica Car. At the same time, the driver of the Tata Sumo Car bearing Registration No.TN 23 BF 0896 which came behind the Tata Indica Car drove the vehicle in a rash and negligent manner and the said vehicle also dashed against the Tata Indica Car. Due to the above accident, Jeyashree Srinivasan lost her life and Radha, Melvin Anto, Subashini sustained injuries.

4.Shanmugha Sundaram is the owner of the Lorry insured with the United India Insurance Company Limited and Sampath is the owner of the Tata Sumo Car insured with the Royal Sundaram Alliance Insurance Company Limited/ appellant.

5.Thereafter, the dependants of the deceased Jeyashree Srinivasan and the injured/ claimants filed claim petitions before the Motor Accidents Claims Tribunal, claiming compensation of Rs.2 Crores, Rs.7 Lakhs, Rs.7 Lakhs and Rs.10 Lakhs respectively. After adjudication, the Motor Accidents Claims Tribunal, awarded the following compensation to the claimants/ petitioners therein and aggrieved by the same, the appellant Insurance Company has filed these appeals.

(i)In M.C.O.P.No.222 of 2014, the tribunal awarded a sum of Rs.60,33,771/- as compensation to the claimants along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit of the entire amount and costs and directed the United India Insurance Company Limited to deposit 75% of the compensation amount and the Royal Sundaram Alliance Insurance Company Limited/ appellant to deposit 25% of the compensation amount.

(ii)In M.C.O.P.No.224 of 2014, the tribunal awarded a sum of Rs.50,000/- as compensation to the claimant along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit of the entire amount and costs and directed the United India Insurance Company Limited to deposit 75% of the compensation amount and the Royal Sundaram Alliance Insurance Company Limited/ appellant to deposit 25% of the compensation amount.

(iii)In M.C.O.P.No.223 of 2014, the tribunal awarded a sum of Rs.1,87,165/- as compensation to the claimant along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit of the entire amount and costs and directed the United India Insurance Company Limited to deposit 75% of the compensation amount and the Royal Sundaram Alliance Insurance Company Limited/ appellant to deposit 25% of the compensation amount.

(iv)In M.C.O.P.No.536 of 2015, the tribunal awarded a sum of Rs.1,50,000/- as compensation to the claimant along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit of the entire amount and costs and directed the United India Insurance Company Limited to deposit 75% of the compensation amount and the Royal Sundaram Alliance Insurance Company Limited/ appellant to deposit 25% of the compensation amount.

6.In order to prove the case, the claimants examined P.W.1 to P.W.8 and marked exhibits Ex.P.1 to Ex.P.33. The respective owner of the vehicles and the respective Insurance Companies examined R.W.1 to R.W.5 and marked Ex.R.1 to Ex.R.9.

7.The learned counsel appearing for the appellant/ Royal Sundaram Alliance Insurance Company Limited submitted that the driver of the Tata Sumo Car insured with the appellant drove the vehicle in a cautious manner behind the Tata Indica Car, however, the Lorry insured with the United India Insurance Company Limited came in the opposite direction in a rash and negligent manner and dashed against the Tata Indica Car, due to which, the front side of the Tata Indica Car got completely damaged and one of the passenger in the Tata Indica Car died and three passengers in the Tata Indica Car sustained injuries. The learned counsel further submitted that there is no damage in the backside of the Tata Indica Car and the same is established through Ex.R.2 by R.W.2, however, the Tribunal without considering the same, directed the appellant to deposit 25% of the compensation which is not sustainable one. The learned counsel further submitted that the quantum of compensation awarded to the dependants of the deceased is highly excessive.

8.The learned counsel appearing for the United India Insurance Company Limited submitted that the Tata Sumo Car was coming behind the Tata Indica Car. Initially, the Lorry insured with the United India Insurance Company came in the opposite direction and dashed against the Tata Indica Car. Thereafter, the Tata Sumo Car insured with the appellant which came behind the Tata Indica Car, dashed against the Tata Indica Car, thereby, huge accident occurred and hence, the Tribunal directed the United India Insurance Company Limited to deposit 75% of the compensation amount and the Royal Sundaram Alliance Insurance Company Limited/ appellant to deposit 25% of the compensation amount. The learned counsel further submitted that the quantum of compensation awarded to the dependants of the deceased is highly excessive.

9.The learned counsel appearing for the respective claimants submitted that P.W.8 is the driver of the Tata Indica Car and he drove the vehicle very cautiously. At that time, the Lorry came in the opposite direction in a rash and negligent manner and dashed against the Tata Indica Car. At the same time, the Tata Sumo Car which came behind the Tata Indica Car also dashed against the Tata Indica Car. Both the vehicles dashed the Tata Indica Car simultaneously, thereby, one of the passenger died and three of them sustained injuries. The learned counsel further submitted that inorder to prove the negligence aspect, the injured claimants examined themselves as P.W.2, P.W.3 and P.W.6 and the husband of the deceased Jeyashree/ one of the claimant examined himself as P.W.1 and to disprove the same, neither the United India Insurance Company Limited nor the Royal Sundaram Alliance Insurance Company Limited examined any independent eye witness. Hence, the Tribunal directed the United India Insurance Company Limited to deposit 75% of the compensation amount and the Royal Sundaram Alliance Insurance Company Limited/ appellant to deposit 25% of the compensation amount.

10.The learned counsel appearing for the respective claimants further submitted that the deceased Jeyashree was 46 years at the time of accident and was working as a Senior Assistant in the State Bank of India, Lalgudi and was earning a sum of Rs.49,012.51/- per month and the same was established through P.W.5 – Manager of the Bank and the salary certificate of the deceased was also marked before the Tribunal as Ex.P.22. Hence, the Tribunal fixed the sum of Rs.63,716.263/- as the notional income of the deceased by adding 30% future prospectus and after deducting 1/3 towards personal expenses and by adopting the multiplier 13, arrived at a sum of Rs.66,26,412/- towards loss of income and deducted 10% towards income tax and awarded a sum of Rs.59,63,771 for loss of income and the amount awarded under the other heads are also just and reasonable.

11.Heard the arguments advanced on either side and perused the materials available on record.

12.The accident is not disputed. P.W.8 is the driver of the Tata Indica Car, who drove the vehicle at the time of accident. On 05.02.2014 at about 10.30 a.m., Jeyashree Srinivasan, Radha, Melvin Anto, Subashini were travelling in the said Car in Trichy – Lalgudi Main Road from West to East near Akilandapuram Bazar. At that time, the Lorry came in the opposite direction in a rash and negligent manner and dashed against the Tata Indica Car. At the same time, the Tata Sumo Car which came behind the Tata Indica Car also dashed against the Tata Indica Car. Both the vehicles dashed the Tata Indica Car simultaneously, thereby, one of the passenger/ Jeyashree Srinivasan died and three of them sustained injuries.

13.Inorder to prove the negligence aspect, the injured claimants examined themselves as P.W.2, P.W.3 and P.W.6 and the husband of the deceased Jeyashree/ one of the claimant examined himself as P.W.1 and to disprove the same, neither the United India Insurance

Company Limited nor the Royal Sundaram Alliance Insurance Company Limited examined any independent eye witness. Hence, the Tribunal directed the United India Insurance Company Limited to deposit 75% of the compensation amount and the Royal Sundaram Alliance Insurance Company Limited/ appellant to deposit 25% of the compensation amount. Without examining any independent eye witness, the appellant Insurance Company questioning the liability fastened is not sustainable one.

14.Coming to the question of quantum of compensation, the appellant has disputed only the compensation awarded to the claimant in M.C.O.P.No.222 of 2014 (C.M.A.No.1358 of 2021). Hence, there is no need for any discussion in respect of the quantum of compensation awarded in respect of M.C.O.P.Nos.224 and 223 of 2014 and 536 of 2015 respectively.

15.In M.C.O.P.No.222 of 2014, the tribunal after elaborately discussing the factual aspects awarded a sum of Rs.59,63,771/- for loss of income, Rs.40,000/- for loss of consortium to the first claimant, Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and arrived at a total sum of Rs.60,33,771/- as compensation with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit of the entire amount.

16.The deceased Jeyashree was 46 years at the time of accident and was working as a Senior Assistant in the State Bank of India, Lalgudi and was earning a sum of Rs.49,012.51/- per month and the same was established through P.W.5 – Manager of the Bank and the salary certificate of the deceased was also marked before the Tribunal as Ex.P.22. Hence, the Tribunal fixed the sum of Rs.63,716.263/- as the notional income of the deceased by adding 30% future prospectus and after deducting 1/3 towards personal expenses and by adopting the multiplier 13, arrived at a sum of Rs.66,26,412/- towards loss of income and after deducting 10% towards income tax, awarded a sum of Rs.59,63,771 for loss of income. The amount awarded under the other heads are also just and reasonable. Hence, the impugned judgment warrants no interference.

17.In view of all the above, the civil miscellaneous appeals are dismissed. The judgment and decree in M.C.O.P.Nos.222, 224 and

223 of 2014 and 536 of 2015 respectively, dated 12.11.2018, on the file of the Motor Accidents Claims Tribunal (Principal District Judge) at Perambalur, is confirmed. No costs. Consequently, the connected miscellaneous petitions are closed.

05.12.2024

pri

Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
(Principal District Judge) at Perambalur.

M.DHANDAPANI,J.
pri

C.M.A.Nos.1358, 1359, 1364 and 1366 of 2021
And
C.M.P.Nos.6978, 6982, 7017 and 7027 of 2021

05.12.2024