



Civil Miscellaneous Appeal No.1166 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.1166 of 2020

and

C.M.P.No.7329 of 2020

The Divisional Manager,
The National Insurance Co. Ltd.,
D.O., 110 J.N.Street,
Puducherry - 605 001.

... Appellant

Vs.

1.Minor Mugilvanan
S/o.Arunachalam

2.Minor Anbu
S/o.Arunachalam
(minors represented by grand-mother/
guardian/next friend F.Sowbakiyam)

3.P.Ramakrishnan
S/o.Pitchaikaran

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 16.04.2019 made in M.C.O.P.No.2317 of 2013 on the file of Motor Accident Claims Tribunal, Principal District Court, Cuddalore.

For Appellant : Ms.R.Sreevidhya



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For Respondents : Not ready in notice [R1 & R2]
No appearance [R3]

J U D G M E N T

The appellant/Insurance Company, aggrieved by the award passed by the Motor Accident Claims Tribunal, Principal District Court, Cuddalore, in M.C.O.P.No.2317 of 2013, dated 16.04.2019, has filed this appeal.

2. The respondents 1 and 2 are the claimants. The case of the claimants is that on 28.08.2011 at about 20.00 hours, when the mother of the claimants, namely, Renuga @ Renugambal, was travelling as a pillion rider in a two wheeler driven by her husband and was proceeding in Cuddalore to Chittoor main road, a Tractor belonging to the third respondent which was coming behind, was driven by its driver in a rash and negligent manner and hit the two wheeler, due to which, Renuga @ Renugambal sustained fatal injuries and died on the spot. The deceased was a milk vendor and was earning a sum of Rs.7,500/- per month. It is under these circumstances, the claimants have filed the claim petition before the Tribunal seeking for compensation.



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3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the third respondent's vehicle which was insured with the appellant/Insurance Company. Having rendered such a finding, the Tribunal proceeded to determine the compensation payable at Rs.9,82,000/- in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	9,52,000/-
2.	Loss of Estate & funeral expenses	30,000/-
	Total	9,82,000/-

The Tribunal directed the above compensation to be paid with interest at the rate of 8% p.a. by the appellant/Insurance Company.

4. Questioning the quantum of compensation awarded by the Tribunal, the appellant/Insurance company has filed the present appeal.

5. The learned counsel appearing for the appellant/Insurance Company submits that the respondents 1 and 2/claimants are not the legal



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heirs of the deceased, namely, Renuga @ Renugambal and the deceased is the step mother of the claimants, even then, the Tribunal has awarded a compensation of Rs.4,91,000/- which is not sustainable one and the compensation awarded by the Tribunal is also on the higher side. Hence, she prays for allowing this appeal.

6. Heard learned counsel for appellant/Insurance company. Though notice was served on the respondents, there is no representation for the respondents. Considering the pendency of this appeal, this Court is inclined to dispose of this appeal based on the materials available on record.

7. This Court carefully considered the submissions made on either side and perused the materials available on record.

8. In the instant case, the accident occurred on 28.08.2011 which was evident from P.W.2, who is an eye-witness to the occurrence and



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deposed that the Tractor belonging to the third respondent which was coming behind hit the motorcycle driven by their father, due to which, Renuga @ Renugambal died on the spot and thereby, Ex.P1/FIR was registered against the driver of the third respondent's vehicle. The Tribunal, after relying Ex.P1/FIR and the evidence deposed by P.W.1 and P.W.2, fixed the negligence on the part of the driver of the offending vehicle and the Tribunal also took into consideration the fact that the driver of the third respondent's vehicle had a valid driving license on the date of the accident and the vehicle was insured with the appellant/Insurance Company and directed the appellant/Insurance Company to pay the compensation to the claimants.

9. Admittedly, the claimants are not the legal heirs of the deceased as claimed by the learned counsel appearing for the appellant/Insurance Company and they were born to the first wife of Arunachalam and after the death of first wife, Arunachalam married Renugambal for whom the claim petition was filed by the respondents 1 and 2/claimants and she was added as family member in the family card which was marked as Ex.P8. There is no quarrel that the minor claimants were under the care of their father and stepmother/deceased all along and therefore, the minor



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claimants are entitled to claim compensation.

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10. With regard to quantum of compensation, though the respondents 1 and 2/claimants claimed that the deceased was a milk vendor and was earning a sum of Rs.7,000/- per month, no documentary proof was filed by them to substantiate the income of the deceased, hence, considering the age of the deceased and the nature of work, the Tribunal has fixed the monthly income of the deceased at Rs.5,000/-. Since the deceased was aged about 30 years on the date of the accident, as per Ex.P3/Copy of Post-mortem Certificate, the Tribunal added 40% future prospects and deducted 1/3 towards personal expenses and adopted the multiplier of “17”, thereby, the loss of dependency was arrived at Rs.9,52,000/- and the amount awarded under the other heads loss of estate and funeral expenses also appears to be reasonable. Hence, the award dated 16.04.2019 made in M.C.O.P.No.2317 of 2013 by the Motor Accident Claims Tribunal, Principal District Court, Cuddalore, is hereby confirmed.

11. Accordingly, this Civil Miscellaneous Appeal is dismissed.

There shall be no order as to costs.



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Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

ssb

To

The Motor Accident Claims Tribunal,
Principal District Judge, Cuddalore.



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M.DHANDAPANI, J

ssb

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