



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2024

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CORAM:

THE HON'BLE MR. JUSTICE M.DANDAPANI

C.M.A. Nos.963 and 965 of 2020 & C.M.P. Nos.6065 and 6070 of 2020

1. The Director of Town Panchayats
Kuralagam
Chennai 600 108
2. The Assistant Director of Town Panchayats
District Collector Office Buildings
Tiruchirappalli

Appellants

vs.

P. Rajaraman (died)

1. Hema Kalairani
2. R. Vimalraj

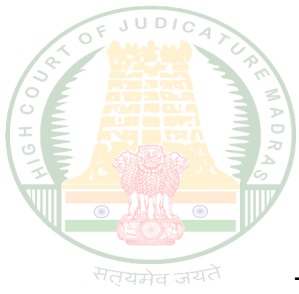
Respondents

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, challenging the common judgment and decree dated 17.04.2018 made in M.C.O.P. No.297 and 298 of 2007 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Chidambaram.

For appellants Mr. D. Gopal
in both appeals Government Advocate

For respondents Mr. A. Muthukumar
in both appeals

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COMMON JUDGMENT

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These civil miscellaneous appeals are directed by the State against the common judgment and decree dated 17.04.2018 passed by the Motor Accident Claims Tribunal (Subordinate Court), Chidambaram (for short "Tribunal") in M.C.O.P. Nos.297 and 298 of 2007.

2. The facts leading to the filing of these civil miscellaneous appeals, minus minute details, can tersely be stated as under:

2.1. On 19.04.2005, one Rajaraman, his wife Kalaiselvi and their daughter Hema Kalairani were travelling in a Maruti Esteem car bearing Regn. No.TN 07 F 1733 driven by their driver. When the car neared G.B. Food Oil Company in Trichy Main Road, Pudukudi, on the left side of the road in a careful manner, a jeep bearing Regn.No. TN 45 G 0492 belonging to the appellants (State), driven in a rash and negligent manner, dashed against the Maruti Esteem car and owing to the impact caused by the same, the Maruti Esteem car dashed against a roadside tamarind tree. In the said accident, Kalaiselvi who sustained grievous injuries, breathed her last on 27.04.2005, after having been admitted to two hospitals. Hema Kalairani also sustained grievous injuries in the said accident and she was also admitted to two hospitals.

2.2. Hence, the children of the deceased Kalaiselvi, viz., Hema



Kalairani and Vimalraj, filed MACTOP No.297 of 2007 before the Tribunal seeking a total compensation of Rs.10 lakhs with the following break

up:
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<i>S.No.</i>	<i>Head</i>	<i>Compensation claimed (Rs.)</i>
1	Transport to Hospital	5,000
2	Extra nourishment	5,000
3	Damage to clothing and articles	5,000
4	Expenditure on medical treatment	4,00,000
5	Other expenses	55,000
6	Compensation for pain and suffering	30,000
7	Loss of consortium, service to family, etc.	5,00,000
	Total	10,00,000

2.3. Likewise, Hema Kalairani who could not walk for a long time and also squat on the floor and could not get a job even owing to the injuries sustained in the accident, filed MACTOP No.298 of 2007 seeking a total compensation of Rs.6.75 lakhs (restricted to Rs.6 lakhs) with the following break up:

<i>S.No.</i>	<i>Head</i>	<i>Compensation claimed (Rs.)</i>
1	Transport to Hospital	5,000
2	Extra nourishment	10,000
3	Damage to clothing and articles	5,000
4	Expenditure on medical treatment	2,00,000
5	Other expenses	25,000
6	Compensation for pain and suffering	30,000
7	Compensation for continuing or permanent disability, if any	2,50,000
8	Compensation for loss of earning power	1,50,000
	Total	6,75,000 (restricted to



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C.M.A. Nos.963 and 965 of 2



<i>S.No.</i>	<i>Head</i>	<i>Compensation claimed (Rs.)</i>
		6,00,000)



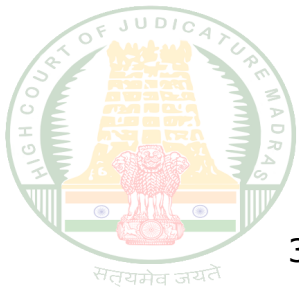
2.4. Per contra, the stand of the Panchayat before the Tribunal *inter alia* and in short was that the cases were foisted ones.

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2.5. Before the Tribunal, to substantiate their case, the claimants examined three witnesses and marked 28 exhibits and the State examined two witnesses, one of whom was the Inspector of Chengipatti Police Station but did not mark any document.

2.6 The Tribunal, after hearing both sides and appreciating the evidence on record, by a common award dated 17.04.2018, ordered compensation of Rs.11,79,000/- in MACTOP No.297 of 2007 payable to Hema Kalairani and her brother Vimalraj together with interest. Since their father was Rajaraman was no more, the claim in respect of him was negatived. In MACTOP No.298 of 2007, the Tribunal awarded a compensation of Rs.1,50,400/- together with interest.

2.7 Challenging the aforesaid common award passed in MACTOP Nos.297 and 298 of 2007, CMA Nos.963 and 965 of 2020 have been filed by the State contending that the accident in question was not caused due to the negligence of the driver of the offending vehicle and that the quantum of compensation awarded by the Tribunal is exorbitant.



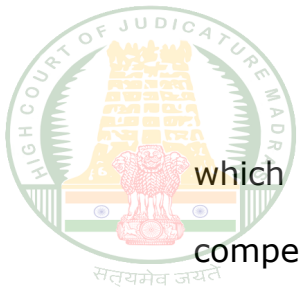
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3. Heard the learned Government Advocate for the appellants and the learned counsel for the respondents/claimants.

4. The Tribunal, based on the evidence of the driver of the vehicle in question in cross-examination in which he has categorically admitted that a charge sheet has been filed against him and that the case filed by him before the Madurai Bench of Madras High Court contending that his vehicle was not involved in the accident, was dismissed and that he did not prefer an appeal there against, rejected the stand taken by the State that their vehicle was not at all involved in the accident.

5. On the aspect of negligence, based on the oral testimony of P.W.2 (Hema Kalairani) who was travelling in the car at the time of accident, coupled with the charge sheet laid against the driver of the offending vehicle and other connected exhibits marked on the side of the claimants, concluded that the accident occurred only due to the rash and negligent driving of the driver of the offending vehicle, which, in the opinion of this Court, is based on sound reasoning and hence, does not warrant interference.

6. Now, coming to the quantum of compensation, as against the claim of Rs.10 lakhs in MACTOP No.297 of 2007, the break up of



which is given in paragraph 2.2, *supra*, the Tribunal has awarded compensation as under:

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S.No.	Head	Amount (Rs.)
1	Medical Expenses	1,19,000
2	Loss of income	9,60,000
3	Transport expenses	5,000
4	Damage to clothing and articles	5,000
5	Funeral expenses	15,000
6	Loss of estate	15,000
7	Loss of love and affection (Rs.30,000 x 2)	60,000
	Total	11,79,000

7. From a careful scrutiny of impugned common award, it is manifest that the Tribunal has awarded compensation as set out above only on proper appreciation of evidence and sound reasons. This is more so in respect of loss of income towards which a sum of Rs.9,60,000/- has been awarded. While granting this sum, it is seen that the Tribunal has considered the rulings of the Supreme Court in respect of fixation of loss of income caused owing to demise of a housewife, arrived at the monthly income of the deceased as Rs.8,000/- and fixed the appropriate multiplier, viz., 15, which, by no means, be called excessive, to arrive at a sum of Rs.9,60,000/- as compensation towards loss of income.



WEB COPY 8. Now, coming to compensation in MACTOP No.298 of 2007 as against the claim of Rs.6,00,000/-, it is seen that the Tribunal awarded compensation as under:

S.No.	Head	Amount (Rs.)
1	Transport expenses	2,400
2	Extra nourishment	5,000
3	Medical expenses	5,000
4	Miscellaneous expenses	5,000
5	Pain and Suffering	25,000
6	Partial permanent disability	1,08,000
	Total	1,50,400

9. Here again, it is seen that the Tribunal has awarded compensation, as above, only on proper appreciation of the evidence on record and hence, the same cannot be said to be exorbitant as claimed by the appellants and rather it is only in commensurate with the injuries suffered by the injured.

10. In view of the above discussion, this Court holds that the impugned common award of the Tribunal does not warrant interference.

11. Resultantly, both the appeals fail and are accordingly dismissed, confirming the award passed by the tribunal in M.C.O.P.

No.297 and 298 of 2007 dated 17.04.2018 and the appellants 1 and 2



are directed to deposit the respective compensation awarded by the tribunal to the credit of M.C.O.P. Nos.297 and 298 of 2007 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to transfer the said amount to the respondent in respective appeals directly to their bank account through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in this appeal.

15.11.2024

RAP

Index : Yes / No

Speaking order / Non-speaking order

Netrual Citation Case : Yes / No

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To

1. The Motor Accident Claims Tribunal
Subordinate Court
Chidambaram
2. The Section Officer, V.R.S.Ection, High Court, Madras.



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C.M.A. Nos.963 and 965 of 2



M. DHANDAPANI, J.

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C.M.A. Nos.963 and 965 of 2020

15.11.2024