



CMA.(MD)No.344 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14/06/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

CMA (MD) No. 344 of 2021

and

CMP (MD) No. 2839 of 2021

National Insurance Company Limited,
represented through its Branch Manager,
Branch Office, 1st Floor,
D.No.7/1, West Car Street,
Sivakasi-626 123. : Appellant/2nd Respondent

Vs.

1.S.Padmavathi
2.S.Kalaivani
3.S.Pradeep : Respondents 1 to 3/
Petitioners
4.N.Gurusamy : 4th Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act to set aside the Judgment and Decree, dated 06/08/2020 passed in MCOP No.1006 of 2017 by the Motor Accident Claims Tribunal (I Additional District Court), Tirunelveli.

For Appellant : Mr.J.S.Murali
For 1st Respondent : Mr.V.Sasukumar
For R2 and R3 : No appearance
For 4th Respondent : Dispensed with



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J U D G M E N T

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This Civil Miscellaneous Appeal is filed seeking an order to set aside the Judgment and Decree, dated 06/08/2020 passed in MCOP No.1006 of 2017 by the Motor Accident Claims Tribunal (I Additional District Court), Tirunelveli.

2.The facts in brief:-

On 09/04/2017 at about 01.45 pm, the deceased Subbaraj was travelling in a motor cycle bearing registration No.TN-67-AK-7857 as pillion rider with one Thirupathi. When he was nearing the place of occurrence, a goods vehicle bearing registration No.TN-45-Y-5461 which belongs to the first respondent, driven by its driver in a rash and negligent manner dashed against the motor cycle. As a result of which, both were thrown out and died on the spot itself. Over which, a case in Crime No.137 of 2017 was registered against the first respondent vehicle driver.

3.The deceased Subbaraj was working as Special Sub Inspector and earning a sum of Rs.45,628/- per month. There is a chance for promotion and other monetary benefit increase. He was aged about 55 years at the time of occurrence. Claiming compensation of Rs.50,00,000/-, the dependants preferred the claim petition.



4. That was resisted by the appellant herein by filing a counter contending that the deceased Thirupathi was not having proper, effective and valid driving licence and in a negligent manner, he tried to overtake the vehicle, which was coming in the opposite direction and hit the first respondent's vehicle front side. Only because of the rash and negligent act on the part of the deceased Thirupathi, the occurrence took place and not on the part of the first respondent vehicle driver.

5. Before the Tribunal, on the side of the claimants, 2 witnesses were examined and 8 documents marked. On the side of the Insurance Company, one witness was examined and one document marked.

6. At the conclusion of the enquiry process, the Tribunal recorded a finding with regard to the negligent aspect that it occurred due to rash and negligent act on the part of the first respondent's vehicle driver. Regarding the compensation, it adopted multiplier method and arrived at the following heads:-

S.No .	Head	Amount
01.	Loss of Income	Rs.40,29,245/-
02.	Loss of Estate	Rs. 15,000/-
03.	Loss of consortium	Rs. 40,000/-
04.	Funeral expenses	Rs. 15,000/-
	Total	Rs.40,99,245/-



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7.Challenging the same, this appeal is preferred by the appellant stating that the split multiplier method was not adopted. According to him, multiplier method ought not to have been adopted by the Tribunal and the Income Tax @ 20% ought to have been deducted out of the award amount.

8.Heard both sides.

9.Regarding the negligent aspect, no argument was advanced on the side of the appellant. But however, it is the duty of this court to go into that aspect also.

10.PW2 was the eye witness. He has stated in his evidence that the rider of the two wheeler namely Thirupathi along with the pillion rider Subbaraj, he was following them in another two wheeler near the place of occurrence. At that time, the first respondent's vehicle came in the opposite direction driven by its driver in a rash and negligent manner, came in the wrong direction namely on the right hand side of the road and hit the two wheeler.

11.From the evidence of PW2, it is seen that the 1st respondent vehicle driver came in the opposite direction



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on the wrong side without keeping left and dashed against the deceased vehicle. So, the manner in which the occurrence took place indicates the rashness of the first respondent vehicle.

12. There is no contra evidence on the side of the appellant. So the conclusion reached by the Tribunal that it appears that due to rash and negligent on the part of the first respondent vehicle, the occurrence took place. So, there is no reason to interfere the same and accordingly, it is confirmed.

13. Regarding the quantum, it is not disputed that the deceased Subbaraj was working as Special Sub Inspector in the Police Department. His age was fixed at 55 years and 10 months on the basis of the records. The gross salary was fixed at Rs.45,628/- as per the documents produced under Ex.R1. Future prospects, based upon the judgment of the **Pranay Sethi's** case was fixed at 10%. Finally, it arrived at the loss of income per month at Rs.50,190/-. Net income salary was also taken into account on the ground of the income tax slab available during the relevant year 2012-2013. Now, the income tax slab must be taken as 20%. But no contra income tax slab rate was produced by the appellant. So the Loss of Income



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was estimated at Rs.66,25,080/- by adopting the multiplier '11'.

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14.This is now disputed by the appellant. But it has been well settled by the Hon'ble Supreme Court in ***R.Valli and others Vs. Tamil Nadu State Transport Corporation Ltd. [2022(1) TN MAC 289(SC)***. It has been clarified that in such cases, split multiplier method should not be adopted. So, multiplier '11' adopted by the Tribunal on the basis of the age of the deceased also in accordance with law, which requires no interference.

15.Compensation of other heads also reasonably awarded. Regarding the consortium, the first petitioner alone has been taken leaving the other petitioners. But there is no cross appeal by the claimants. So, I find absolutely no reason to interfere into the award passed by the tribunal.

16.In the result, this Civil Miscellaneous Appeal is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No
Internet:Yes/No
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To,

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- 1.The Motor Accident Claims Tribunal,
The I Additional District Court,
Tirunelveli.
- 2.The Section Officer,
VR/ER Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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