



C.M.A(MD)No.188 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 13.06.2024

CORAM

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.M.A(MD)No.188 of 2021

and

C.M.P(MD)No.1618 of 2021

The Branch Manager
National Insurance Company Limited,
Kumbakonam. ... Appellant / Respondent No.2

Vs.

- 1.Padmini
- 2.Sathyabama
- 3.Satheeshkumar
- 4.Shalini ... 1 to 4th Respondents / Petitioners
- 5.The Correspondent,
Pioneer Public School, KRM Nagar,
Chockanathapuram, Pattukottai,
Thanjavur. ... 5th Respondent / 1st Respondent



C.M.A(MD)No.188 of 2021

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 Motor vehicles Act to set aside the judgment and decree made in M.C.O.P.No.90 of 2018 dated 29.08.2019 on the file of the Motor Accidents Claims Tribunal, Third Additional District and Sessions Court at Pattukottai, Thanjavur.

For Appellant : Mr.J.S.Murali

For Respondents : No appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed to set aside the award made in M.C.O.P.No.90 of 2018 dated 29.08.2019 on the file of the Motor Accidents Claims Tribunal, III Additional District and Sessions Court at Pattukottai, Thanjavur.

2. The case of the prosecution is that on 01.12.2017, at about 4.30 p.m., the deceased Palaniappan was riding his two wheeler bearing registration No.TN 49 BV 2338 on the Pattukottai road. At that time, a school bus bearing registration TN 21 AW 7240 was driven by its driver in a rash and



C.M.A(MD)No.188 of 2021

negligent manner and crossed the other side of the road and hit Palaniappan.

As a result of which, he sustained grievous injuries. He was taken to the Pattukottai Government Hospital, where he was declared to be dead. A case in Crime No.371 of 2017 was registered against the first respondent vehicle driver. The deceased was working as a Panchayat Union Contractor under PWD. Claiming compensation of Rs.75 Lakhs, the dependants filed the claim petition. That was resisted by the insurance company stating that the occurrence took place because of the rash and negligent driving on the part of the Palaniyappan. Other customary denials were made. The deceased Palaniyappan hit the right rear side of the vehicle. So no liability can be fastened upon the first respondent and in turn the appellant.

3. Before the Tribunal, on the side of the claimant, two witnesses were examined and 15 documents were marked. On the side of the appellant none was examined and no document was marked.

4. Regarding the aspect of negligence, the Tribunal recorded a finding that it occurred only due to the rash and negligent driving on the part of the appellant's insured vehicle driver. Regarding the compensation, the monthly



C.M.A(MD)No.188 of 2021

income of the deceased was assessed at Rs.18,000/-. Accordingly, 10% of Future Prospectus was taken. Finally, after adding the conventional amount, the compensation was fixed at Rs.16,83,800/-, against which this appeal is preferred by the insurance company, questioning the quantum.

5. Learned counsel for the appellant would straight away draw the attention of this Court to the deduction made by the Tribunal towards the personal expenses. The Tribunal arrived at the monthly income as Rs.19,800. From that amount 1/4 share was deducted towards personal expenses. But the learned counsel for the appellant would submit that it ought to have been 1/3.

6. The award of the Tribunal is as follows:

Sl. No.	Heads	Compensation
1.	Transport Expenses	Rs. 5,000/-
2.	Funeral expenses	Rs. 20,000/-
3.	Loss of Estate	Rs. 15,000/-
4.	Loss of Consortium	Rs. 40,000/-
5.	Loss of Income (14,850 x 12 x 9)	Rs.16,03,800/-
	Total	Rs.16,83,800/-



C.M.A(MD)No.188 of 2021

WEB COPY

7. As per the judgment of the Hon'ble Supreme Court reported in **2009(2) TNMAC 1 (SC)** in the case of **Sarala Verma Vs. Delhi Transport Corporation**, personal and living expenses of the deceased must be deducted on the basis of number of dependants. Here, the number of dependants of the deceased are four. So 1/4 has been deducted by the Tribunal, so it requires no interference. Similarly, the multiplier 9 was applied. The deceased was aged about 59. So, the multiplier 9 taken by the Tribunal is also correct. I find no reason to interfere with the award passed by the Tribunal.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2024

NCC: Yes / No
Index: Yes / No
Internet : Yes / No

pnn



WEB COPY



C.M.A(MD)No.188 of 2021

G.ILANGO VAN, J.

pnn

To

- 1.The Motor Accidents Claims Tribunal,
III Additional District and Sessions Court at Pattukottai, Thanjavur.
- 2.The Section Officer, Vernacular Records Section,
Madurai Bench of Madras High Court, Madurai.

**C.M.A(MD)No.188 of 2021
and
C.M.P(MD)No.1618 of 2021**

13.06.2024