

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.141 of 2015

and

M.P.No. 1 of 2015

United India Insurance Co. Ltd.,  
No.19, Andiappa Gramani Street,  
Royapuram, Chennai - 13. ... Appellant/2nd Respondent

Vs.

1.Mrs.N.Meenakshi (deceased)  
2.Mr.N.Rajendran  
3.Mr.N.Ravi ... Respondents2&3/Petitioner 2&3  
4.Mr.S.Ayub Sheriff @ F.Sheriff ... 4th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and the judgment dated 3<sup>rd</sup> July, 2013 passed in M.C.O.P.No.2173 of 2013 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr.G.Udayasankar

JUDGMENT

The appeal has been preferred by the appellant-Insurance Company against the award of Rs.3,76,200/- for the death of one Meenakshi, aged about 60 years in the accident, which occurred on 22.05.2010. The only question to be decided is whether the death is caused due to the injuries sustained by the deceased at the time of the accident and as to whether the amount awarded is on the higher side.

2. Heard the learned counsel for the appellant.

3. The learned counsel for the appellant would submit that the accident occurred on 22.05.2010, whereas after filing of the claim petition, the victim died on 01.10.2010 and therefore, the injury should not have been caused for the death. Further, he would submit that the Tribunal wrongly determined the monthly income at Rs.4,500/-. On the above grounds, he seeks to reduce the amount.

4. It is evident from the the records that the victim sustained lacerated injury on left scalp 4 cms, fracture of left femur and treated conservatively for head injury, for femur fracture open reduction and internal fixation was done with DHS plate and she was hospitalised for more than two weeks from 22.05.2010 to 08.06.2010. P.W.3, Doctor deposed that the victim died on 01.10.2010 due to complication arising out of the injuries. Through Ex.P.10, the same Doctor opined that the death was due to injuries sustained in the accident and its complications. As per Ex.P5, it would reveals that the death was caused due to Seizure disorder, aspiration pneumonia, post RTA fracture at left femur. It may appears that the injury caused to the head is only a simple injury. Any injury caused in the head will definitely capable of affecting brain and the numerological system and it may not be possible to find out as to how and when it affects the body. Therefore, the injury caused to the head cannot be compared with the injury caused to the other parts of the body. That apart when expert P.W.3 Doctor categorically stated that the victim died out of the complications due to the injuries, in the absence of any contra evidence, except doctor's opinion, the Tribunal rightly accepted the claimant's case that the victim died because of the injuries sustained by the victim in the accident. Therefore, the said finding cannot be interfered with.

5. Though the learned counsel appearing for the appellant would contend that a 60 years old lady cannot earn about Rs.4,500/- per month, even she is in capable of earning about Rs.4,500/-, it is anybodies knowledge that for a sum of Rs.4,500/- no one will not be able to get a servant made but too in the year 2010. Even she is not a coolie, her service is a home maker cannot be under estimated which has been repeatedly recognized by the Honourable Supreme Court in Lata Wadhwa and others V. State of Bihar and Others reported in 2001 ACJ 1735. The said judgment was followed by this Court in United India Insurance Company Limited Vs. M.Paulpandi reported in 2011 ACJ 687 (Mad) and in Kasturi Vs. Tamil Nadu State Transport Corporation reported in 2011 ACJ 2284. The service of the home maker cannot be determined in terms of money. Therefore, Rs.4,500/- determined by the Tribunal as monthly income is in accordance with law.

6. The Tribunal determined the multiplier '9' as per the judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TNMAC 1 and determined the amount of Rs.3,24,000/-  $(4,500-1/3 \times 12 \times 9)$ . The said determination is according to law.

7. Rs.10,000/- awarded towards transportation, Rs.2,000/- towards extra nourishment, Rs.9,700/- towards medical expenses, Rs.10,000/- towards funeral expenses, Rs.20,000/- towards loss of love and affection are all reasonable and the same cannot be set aside. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

8. In view of the above, this Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, it is made clear that the finding given by this Court is only for the disposal of this appeal filed by the Insurance Company alone. This will not preclude the claimants from filing any proceedings for enhancement if so advised.

9. The appellant is directed to deposit the entire amount along with interest and costs, after adjusting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents 1 to 3/claimants are permitted to withdraw their respective shares as apportioned by the Tribunal.

Sd/-  
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,  
V Small Causes Court, Chennai.

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krd 31/3

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