

In the High Court of Judicature at Madras

Dated : 25.6.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Civil Miscellaneous Appeal Nos.1558 and 1558 of 2014 and M.P.Nos.1 & 1 of 2014

The Manager, United India Insurance
Co.Ltd., Chidambaram.

...Appellant in
both the CMAs

Vs

1.Anusuya
2.Munusamy
3.Selvi.Pooma

...R1 to R3 in
CMA.No.1558/2014

4.Bharatraja

...R1 in CMA.No.
1559/2014

5.R.Karunanidhi

...R4 in CMA.1558/
2014 & R2 in CMA.
1559/2014

APPEALS under Section 173 of the Motor Vehicles Act against the common
award dated 21.8.2013 made respectively in M.C.O.P.Nos.10 and 18 of 2012 on the
file of the Motor Accidents Claims Tribunal (Subordinate Court), Chidambaram.

For Appellant in both CMAs : Mr.S.Arunkumar
For R1 to R3 in CMA.No.1558/2014 &
R1 in CMA.No.1559/2014 : Mr.T.Gopinath for M/s.Royan Law Associates
For R4 in CMA.No.1558/2014 &
R2 in CMA.No.1559/2014 : Mr.K.G.Senthilkumar

COMMON JUDGMENT
(Judgment was delivered by V.RAMASUBRAMANIAN,J)

These appeals are filed by the Insurance Company challenging two awards of the Motor Accidents Claims Tribunal.

2. Heard Mr.S.Arunkumar, learned counsel for the appellant/Insurance Company and Mr.T.Gopinath, learned counsel appearing for the claimants.

3. In a road traffic accident that occurred on 14.12.2011, one Mr.Deepakraja, who was a student of the second year degree in engineering, died on the spot and his brother Bharatraja sustained injuries. The parents of both the boys filed two different claim petitions in M.C.O.P.Nos.10 and 18 of 2012. By a common award passed on 21.8.2013, the Tribunal awarded a compensation of Rs.14,15,000/- in respect of the death of one of the sons and an amount of Rs.10,000/- as compensation for the injuries sustained by the other son. Aggrieved by both the awards, the Insurance Company has come up with the above appeals.

4. In so far as the appeal arising out of M.C.O.P.No.18 of 2012 is concerned, the total amount of compensation awarded is only Rs.10,000/- for the injuries sustained by one son. It is such a small amount that it does not call for any interference. Therefore, C.M.A.No.1559 of 2014 arising out of M.C.O.P.No.18 of 2012 is dismissed. Consequently, the connected miscellaneous petition is also dismissed. No costs.

5. In so far as the other appeal is concerned arising out of the death claim, the main grievance of the Insurance Company is that the driver of the tractor was not at all at fault. The driver of the vehicle is seriously contesting the criminal case

lodged against him for rash and negligent driving. Therefore, the learned counsel for the appellant contends that the Tribunal ought not to have awarded any compensation.

6. But, we are of the considered view that the findings of the Tribunal in this regard are unassailable. It appears that there were construction materials lying in the road and that the tractor driver had to take a small deviation to avoid those construction materials. The motor cycle, in which, the deceased and the injured were travelling, was coming in the opposite direction. Therefore, the Tribunal took note of the evidence of R.W.1 - the driver of the vehicle, appreciated it in the proper perspective and came to the conclusion that the claim of the tractor driver cannot be accepted. The Tribunal had given cogent reasons for coming to the conclusion that the accident happened due to the rash and negligent driving on the part of the tractor driver. Hence, we do not think that the finding calls for any interference.

7. In so far as the quantum is concerned, the fact that the deceased was a second year student of a degree course in Electrical and Electronics Engineering is admitted. Taking into account the fact that the unfortunate mother was aged 42 years, the Tribunal fixed the probable income at Rs.10,000/- per month, applied the multiplier of 15 and allowed a deduction of 1/3rd. We are of the considered view that the compensation so arrived at in a sum of Rs.12 lakhs is perfectly valid.

8. The only area where some interference is warranted, if at all, is the amount of Rs.1 lakh per head awarded for both the parents towards loss of love

V.RAMASUBRAMANIAN,J
AND
T.MATHIVANAN,J

RS

and affection. The claimants are entitled to Rs.1,00,000/- in total.

9. Therefore, C.M.A.No.1558 of 2014 is partly allowed, modifying the award of the Tribunal in M.C.O.P.No.10 of 2012 and fixing the amount of compensation as Rs.13,15,000/-. In all other respects, the award of the Tribunal is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

10. Since it is stated that only a sum of Rs.10,00,000/- has been deposited, the Insurance Company is directed to deposit the balance award amount to the extent modified in this judgment together with interest and costs. On such deposit, the claimants 1 and 2 are permitted to withdraw their respective shares.

25.6.2015

Internet : Yes

To
The Motor Accidents Claims Tribunal (Subordinate Court), Chidambaram.

CMA(NPD)Nos.1558 & 1559/
2014 & MP.Nos.1 & 1/2014