

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2739 of 2015  
& M.P.No.1 of 2015

TATA AIG General Insurance  
Company Limited,  
Coimbatore

.. Appellant/2nd Respondent

Versus

1.Lakshmi @ Dhanalakshmi  
2.Krishnaveni  
3.Kaveri

..Respondents 1to3/Claimants

4.S.Manjunathan

..4th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 18.03.2015 made in M.C.O.P.No.383/2014 on the file of the Motor Accidents Claims Tribunal, (Special District Judge), Dharmapuri.

For Appellant :Mr.N.Vijayaraghavan

J U D G M E N T

The Civil Miscellaneous Appeal filed by the appellant/Insurance Company is directed against the correctness of the impugned award dated 18.03.2015 made in M.C.O.P.No.383/2014 on the file of the Motor Accidents Claims Tribunal, (Special District Judge), Dharmapuri, awarding a sum of Rs.4,61,400/- with 7.5% interest per annum, for the loss of life of the deceased, who died at the age of 26 years, leaving behind the young widow and the old parents.

2.According to the claimants, on 27.05.2013, at about 08.15 p.m., when one Madhaiyan was riding his TVS Star City Vehicle bearing Registration No.TN 29 AB 4226 at the left end of the road and nearing Palacode Paupparapatti Koot Road, the TVS Super XL bearing Registration No.TN 29 AU 2137 belonging to the first respondent and insured with the second respondent was driven by its driver from Palacode towards Paupparapatti in a very rash and negligent manner and without causing any signal, while crossing the road from left side towards right side of the road,

lost his control and dashed against the said Madhaiyan and caused the accident. Due to the sudden impact, the deceased Madhaiyan sustained fatal injuries all over the body. Immediately, the deceased was taken to Government Hospital, Palacode. Thereafter, he was referred to Government Hospital, Dharmapuri. Despite treatment, he died at 9.25 p.m. Due to the accident, the first respondent being young widow of the deceased lost consortium and company of the deceased and respondents 2 and 3 being parents, lost the love and affection of their only son in their old age.

3. After considering the oral and documentary evidence, the Tribunal fixing notional income of the deceased at Rs.3,300/- and deducting 1/3<sup>rd</sup> towards his personal and living expenses by applying multiplier 18 as his age was 30, has determined Rs.4,75,200/- towards loss of income i.e.  $2200 \times 12 \times 18$ .

4. Heard Mr.N.Vijayaraghavan, learned counsel appearing for the appellant and perused the documents on record. On the side of the claimants, P.Ws.1 and 2 were examined and documents Exs.P1 to P6 were marked. On the side of the appellant/Insurance Company, RWs1 to 3 were examined and Exs.R1 to R6 were marked to substantiate their claim.

5. Learned counsel appearing for the appellant/Insurance Company, assailing the impugned award passed by the Tribunal, contended before this Court that although the Tribunal, has rightly held that 50% contributory negligence to be fixed both on the deceased and also on the driver of the offending vehicle, has awarded a sum of Rs.4,61,400/- as compensation, which is absolutely unreasonable. It was argued by the learned counsel for the appellant that the Tribunal has awarded a huge compensation under the head of loss of consortium for a sum of Rs.2,50,000/- and awarded a sum of Rs.1,50,000/- towards loss of love and affection and therefore the quantum of compensation is liable to be interfered with.

6. This Court is not able to see any merits either on the contention raised by the petitioner challenging the liability part or on the quantum fixing under the heads of loss of consortium and loss of love and affection. Although the claimants have claimed a sum of Rs.4,000/- notional income, Tribunal has fixed Rs.3,300/- as notional monthly income, by deducting 1/3<sup>rd</sup> of the income as his personal and living expenses and by adopting multiplier '18', as per the ratio laid down by the Hon'ble Apex Court in the case of Sarala Varma and others vs Delhi Transport Corporation and another reported in 2009 (2) TN MAC Volume 2 at Page 1 and has fixed a sum of Rs.4,75,200/- towards loss of future income. As a matter of fact the Tribunal has fixed a meagre amount of Rs.2,50,000/- only, while fixing compensation towards the loss of consortium, since the deceased

was aged about 26 years and leaving behind his wife, who is aged about 23 years. In my opinion, a sum of Rs.1,50,000/- awarded towards loss of love and affection, Rs.12,600/- awarded towards transportation and Rs.25,000/- awarded towards funeral expenses by the Tribunal, cannot be considered to be on the higher side. Therefore, the impugned award is upheld.

7. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

8. Since the learned counsel for the appellant submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimants to move a petition before the learned Tribunal for withdrawing of the said amount.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vga

To

Motor Accidents Claims Tribunal,  
(Special District Judge), Dharmapuri

+ 1 cc to Mr.N. Vijayaraghavan, Advocate Sr.67399

सत्यमेव जयते

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