

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

C.M.A.No.2866 of 2011
and M.P.No.1 of 2011

M/s.National Insurance Co. Ltd.,
Branch Office - III,
Thanthai Periyar Market Complex,
II Floor, Opp. to Old Bus Stand,
Salem - 636 001. ... Appellant/Respondent-II

vs.

1.Thiru.Muthusamy Respondent-I/Petitioner-I
2.Tmt.Sarasu Respondent-II/Petitioner-II
3.Tmt.Mageswari Respondent-III/Petitioner-III
4.Thiru.V.Muthukumar Respondent-IV/Respondent-I

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 31.12.2009 passed in M.C.O.P.No.615 of 2004 on the file of the Motor Accidents Claims Tribunal (Fast Track Court), Namakkal.

For Appellant : Mr.J.Chandran

For Respondents : Mr.Ma.P.thangavel - R1 & R2
No appearance - R3 and R4

J U D G M E N T

The National Insurance Co. Ltd. filed the appeal challenging the award dated 31.12.2009 passed in M.C.O.P.No.615 of 2004 on the file of the Motor Accidents Claims Tribunal (Fast Track Court), Namakkal.

2. It is a case of fatal accident. The accident took place on 24.10.2003 at about 11.30 hours opposite to N.Pudupatti High School. When the deceased Srinivasan, aged about 27 years, was riding in a bicycle on the extreme left side of the road, a Toyota Qualis car bearing Registration No.TN-02-Q(t) 251 came in a rash and negligent manner and hit against the deceased. As a result, the deceased sustained injuries all over the body and died on the spot. The father, mother and sister of the deceased have filed the claim

petition claiming a sum of Rs.10.00 lakhs. According to the claimants, the deceased was working as Sales Representative in Malar Oil Mill, Salem Road, Namakkal and was earning a sum of Rs.2,500/- per month and a sum of Rs.50/- per day as batta.

3. On the side of the claimants, P.Ws 1 to 4 were examined and Exs.P.1 to P.7 were marked. On the side of the respondent, R.Ws.1 to 3 were examined and Exs.R.1 and R.2 were marked.

4. The Tribunal, based on the oral and documentary evidence, fixed the income of the deceased at Rs.3,000/- per month. After referring to the decision in the case of Smt.Sarla Verma & Ors. V. Delhi Transport Corporation and anr. reported in 2009 (2) TNMAC 1, the Tribunal deducted 50% of the income towards personal expenses of the deceased and by adopting multiplier 17, the Tribunal granted the following compensation with interest at 7.5% per annum:-

Sl.No.	Particulars	Amount granted by the Tribunal
1	Loss of pecuniary benefit on account of the death of the deceased (Rs.3,000/- x 12 x 17x50/100 = Rs.3,06,000/-)	Rs.3,06,000/-
2	Funeral expenses	Rs. 5,000/-
3	Loss of love and affection	Rs. 20,000/-
	Total	Rs. 3,31,000/-

5. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that there was no contra evidence on the side of the appellant herein with regard to the negligence came to conclusion that the accident had occurred only due to the rash and negligent act of the driver of the bike and consequently fixed the liability on the appellant Insurance Company to compensate the claimants. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

6. On the face of the award, there appears to be no infirmity in the quantum of compensation granted by the Tribunal and the interest also is not excessive as the accident happened in the year 2003 and the Tribunal awarded meagre sum towards loss of love and affection for the three claimants. The amount granted towards funeral expenses is also very low.

7. Finding no merit, this Civil Miscellaneous Appeal is dismissed. It is stated that the appellant had deposited the entire compensation amount. The claimants are permitted to withdraw the amount lying in deposit along with accrued interests and costs, if any. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CSIII)
dt:13/10/2015

True Copy

Sub-Assistant Registrar

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To

1.Motor Accidents Claims Tribunal
The Fast Track Court
Thirupattur, Vellore District.

2.The Section Officer,
V.R. Section,
High Court,
Madras.

+1 cc to M/s.J.Chandran Advocate sr.45637

+1 cc to M/S.Ma.P.Thangavel Advocate sr.44988

C.M.A. No.2866 of 2011
& M.P.No.1 of 2011

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