

In the High Court of Judicature at Madras

Dated : 23.6.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Civil Miscellaneous Appeal No.563 of 2015 and M.P.Nos.1 & 2 of 2015

Reliance General Insurance Co.Ltd.,
Chennai-40.

...Appellant

Vs

1.M.Manjula
2.Minor M.Gowtham
3.Minor M.Naren
4.Minor M.Navin
Minors 2 to 4 rep.by their mother &
next friend - 1st respondent
5.A.Sarasu
6.G.Arumugam
7.M.Siva

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988 against the order dated 5.7.2014 made in M.C.O.P.No.5886 of 2011 on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai.

For Appellant : Mr.N.Vijayaraghavan
For Respondents 1, 5 & 6 : Mr.N.M.Muthurajan
For Respondent-7 : No appearance

JUDGMENT WAS DELIVERED BY V.RAMASUBRAMANIAN,J

This appeal is filed by the Insurance Company challenging the award passed by the Motor Accidents Claims Tribunal.

2. Heard Mr.N.Vijayaraghavan, learned counsel for the appellant and Mr.N.M.Muthurajan, learned counsel for the respondents 1, 5 and 6.

3. In a road traffic accident that occurred on 20.11.2011, the husband of the first respondent herein died. The respondents 2 to 4 are the minor children of the deceased and the respondents 5 and 6 are the parents.

4. The respondents 1 to 6 filed a claim petition in M.C.O.P.No.5886 of 2011 on the file of the Motor Accidents Claims Tribunal, Chennai claiming a compensation of Rs.15 lakhs. By an award passed on 5.7.2014, the Tribunal awarded a sum of Rs.14.10 lakhs. Aggrieved by the said award, the Insurance Company is before us.

5. The fact that the husband of the first respondent was aged about 26 years and the fact that he was self employed as a painter are not in dispute. The fact that the accident happened due to the rash and negligent driving of the vehicle in question is established by the oral evidence of P.W.2, which was corroborated by Ex.P.1 - the copy of the first information report and rough sketch marked as Ex.P.2. Therefore, in the absence of any contra evidence, the Tribunal rightly came to the conclusion that the accident occurred due to the rash and negligent driving on the part of the driver of the vehicle in question.

6. Though there was no specific record to establish the age of the deceased as 26 years, the Tribunal found that as per Ex.P.4 - the post mortem certificate, the age of the deceased was 24 years. The deceased had left behind his wife, three minor children and parents. Therefore, the Tribunal

took the multiplier of 18. We do not think that it calls for any interference, considering the fact that the age of the deceased should have been anywhere in between 24 and 26.

7. The respondents 1 to 6 claimed that the deceased was earning Rs.550/- per day as a painter. P.W.3 was examined to establish this factum. Therefore, considering the evidence of P.W.3, the Tribunal rightly fixed the monthly income of the deceased at Rs.5,000/-.

8. Thereafter, on the basis of the decisions of the Supreme Court in ***Rajesh Vs. Rajbir Singh [2013 (2) TNMAC 55 (SC)]*** and ***Sarla Verma Vs. Delhi Transport Corporation [2009 (2) TNMAC 1 (SC)]***, the Tribunal added 50% towards future prospects and took the monthly income as Rs.7,500/-. After deducting 1/4th amount towards his personal expenses, the Tribunal multiplied the balance namely Rs.5,625/- by 18 and arrived at the pecuniary loss at Rs.12.15 lakhs.

9. None of the above can be taken exception to. The adoption of multiplier of 18 and the application of 50% towards future prospects cannot be questioned. The Tribunal awarded a sum of Rs.75,000/- towards loss of consortium to a lady of 23 years. This cannot also be taken exception to. The grant of funeral expenses to the tune of Rs.25,000/- and the award of Rs.25,000/- for each of the respondents 1 to 4 towards loss of love and affection cannot also be objected to. In the result, the total award of Rs.14.10 lakhs in respect of a fatal accident, in which, a 26 years old person died, leaving behind a widow, three minor children and parents cannot be

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AND
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said to be unfair or of a high order.

10. Accordingly, the civil miscellaneous appeal is dismissed. No costs. Consequently, M.P.No.1 of 2015 is also dismissed.

11. It is stated that the Insurance Company has deposited the entire amount awarded by the Tribunal.

12. Therefore, the respondents 1, 5 and 6 are permitted to withdraw their respective shares. The shares of the minors namely the respondents 2 to 4 shall be invested in a nationalised bank in fixed deposit and the investment shall be renewed from time to time till the minors attain majority. Therefore, M.P.No.2 of 2015 is ordered accordingly.

23.6.2015

Internet : Yes

To
The Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai.

CMA(NPD)No.563 of 2015
and MP.Nos.1 & 2 of 2015