

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

C.M.A.No.2180 of 2006

and

M.P.No.1 of 2006

The National Insurance Co. Ltd.,
Motor Third Party Claims Cell,
3rd Floor, No.751, Anna Salai,
Chennai - 600 002. Appellant/Respondent-II

vs.

1.Tmt.Mala @ Syamala Respondent-I/Petitioner-I
2.Mr.Raja Respondent-II/Petitioner-II
3.Tmt.Dhanalakshmi Respondent-III/Petitioner-III
4.Mr.Chinnaraj @ Govindaraj Respondent-IV/Petitioner-IV
5.Mr.Mohanraj Respondent-V/Respondent-I

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 29.04.2005 passed in M.C.O.P.No.695 of 2002 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Thiruvallur.

For Appellant : Mr.J.Chandran

For Respondents : No appearance

J U D G M E N T

The National Insurance Co. Ltd. filed the appeal challenging the award dated 29.04.2005 passed in M.C.O.P.No.695 of 2002 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Thiruvallur.

2. It is a case of fatal accident. The accident took place on 10.09.2002 at about 19.30 hours at C.T.H. Road, Veppampattu Bus stop, when the deceased, Rajagopalan, aged about 50 years, was driving his bicycle, the TVS Suzuki Motor cycle bearing Registration No.TN-20-F7936, belonging to the first respondent and driven by the first respondent, 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 in the Government General Hospital, Chennai on 13.09.2002. His wife and children have filed the claim petition claiming a sum of Rs.2.00 lakhs. According to the claimants, the deceased was working as mason and was earning a sum of Rs.6,000/- per month.

3. On the side of the claimants, P.Ws. 1 and 2 were examined and Exs.P.1 to P.7 were marked. On the side of the respondent, R.W.1 was examined and no documents were marked.

4. The Tribunal, based on the oral and documentary evidence and taking note of the fact that since no documents were filed to support the income of the deceased, fixed the income of the deceased at Rs.2,000/- per month. After deducting 1/3rd of the income towards personal expenses of the deceased and by adopting multiplier 8, the Tribunal granted the following compensation with interest at 9% per annum:-

Sl.No.	Particulars	Amount granted by the Tribunal
1	Loss of pecuniary benefit on account of the death of the deceased (Rs.2,000/- x 12 x $8 \times \frac{2}{3}$ = Rs.1,28,000/-)	Rs.1,28,000/-
2	Funeral expenses	Rs. 5,000/-
3	Loss of consortium to wife	Rs. 10,000/-
4	Towards mental agony	Rs. 10,000/-
5	Loss of love and affection	Rs. 10,000/-
	Total	Rs.1,63,000/-

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 2002. Further, the compensation granted towards i) funeral expenses, ii) loss of consortium to the wife and iii) loss of love and affection to the children are very low and no amount has been awarded towards

transport charges.

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.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge
(Motor Accidents Claims Tribunal),
Thiruvallur District
2. The Record Keeper,
V.R. Section,
High Court,
Madras.

+1 cc to Mr.J.Chandran,Advocate(sr.45642)

GP(co)
cp 13/10/2015

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