

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.10.2015

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

C.M.A. NOS.876 TO 878 OF 2006
& C.M.P.NOS.3404 TO 3406 OF 2006

C.M.A. NO.876 OF 2006

United India Insurance Co.Ltd.,
Door No.11, First Floor, 104-A,
Perumanur Main Road, Salem - 636 007. .. Appellant/ R4

Versus

1.E.Rajagopal .. R1/P1
2.M.Sasikala .. R2/P2
3.Minor M.Varun ..R3/P3
4.A.Abbas Mandiri R4/R1
R4 TO 6 exparte R2
dismissed by the Tribunal
5.R.Hemanathan ..R5/R2
6.S.Srikanth Kalidas ..R6/R3
Minor rep by mother M. Sasikala

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.A.C.T.O.P.No.115 of 2003 dated 29.04.2005 on the file of the Motor Accident Claims Tribunal [Additional District Judge and Sessions Judge], Coimbatore.

For Appellant : Mr.K.Suryanarayanan
For Respondents - 1 to 3 : Mr.K.Balaji
For Respondents - 4 to 6 : Exparte

C.M.A. NO.877 OF 2006

United India Insurance Co.Ltd.,
Door No.11, First Floor, 104-A,
Perumanur Main Road, Salem - 636 007. .. Appellant/ R4

Versus

1.Minor M.Varun ...R1/P3
2.A.Abbas Mandiri ...R2/R1
3.R.Hemanathan ...R3/R2
4.S.Srikanth Kalidas ...R4/R3 .. Respondents
(Minor rep by mother guardian Sasikala)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.A.C.T.O.P.No.116 of 2003 dated 29.04.2005 on the file of the Motor Accident Claims Tribunal [Additional District Judge and Sessions Judge], Coimbatore.

For Appellant : Mr.K.Suryanarayanan
For Respondent - 1 : Mr.K.Balaji
For Respondents - 2 to 4 : Exparte

C.M.A. NO.878 OF 2006

United India Insurance Co.Ltd.,
Door No.11, First Floor, 104-A,
Perumanur Main Road, Salem - 636 007. .. Appellant/ R4

Versus

1.M.Sasikala ...R1/p1
2.Minor M.Varun ...R2/P2
3.A.Abbas Mandiri ...R3/R1
4.R.Hemanathan ...R4/R2
5.S.Srikanth Kalidas ...R5/R3 ... Respondents
(Minor rep by Sasikala)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.A.C.T.O.P.No.142 of 2003 dated 29.04.2005 on the file of the Motor Accident Claims Tribunal [Additional District Judge and Sessions Judge], Coimbatore.

For Appellant : Mr.K.Suryanarayanan
For Respondents - 1 & 2 : Mr.K.Balaji
For Respondents - 3 to 5 : Exparte

C O M M O N J U D G M E N T

The United India Insurance Company is the appellant. All these three Civil Miscellaneous Appeals arise out of one and the same accident and hence they are disposed of by this common judgment. For the sake of convenience, the facts which lead to the filing of the claim petitions are stated thus;-

"[i] It is the case of the claimants that on 18.01.2003, one Manoharan was riding his Motor Cycle bearing Registration No.KA-02-E-660 and proceeding from his house at Poompukar Nagar towards Managalakari Pudur. That time Manoharan's father B.Erianna Gowder and his son Varun [minor] were also travelling in the same motorcycle as pillion riders. When they were travelling in the Mangalakari Pudur road from east to west in a slow speed, at a

place called Ponder Mokka, the lorry, bearing registration No.TN-27-H-2205 driven by its driver in the opposite direction in a very great speed and negligent manner, dashed against the motorcycle. In the impact of the accident, all the three persons in the motorcycle were thrown away. The injured were taken to KPS Hospital, Mettupalayam for treatment. However, Erianna Gowder was declared dead. The injured Manoharan was admitted at K.G.Hospital, Coimbatore. In spite of best efforts, he succumbed to death on the same day i.e. on 18.01.2003. The minor Varun was given first aid at KPS Hospital, Mettupalayam and then taken to K.G. Hospital, Coimbatore, where he was treated as inpatient from 18.01.2003 till 29.01.2003.

[ii] Thus, claiming compensation for the death of Erianna Gowder, his other son Rajagopal, daughter-in-law, Sasikala and his grandson, Varun have filed O.P.No.115 of 2003 claiming a compensation of a sum of Rs.2,00,000/-. Minor Varun has filed O.P.No.116 of 2003 seeking a compensation of a sum of Rs.4,60,000/- for the injuries sustained by him in the accident. The other viz., O.P.No.142 of 2003 is filed by Sasikala and minor Varun, being the wife and son of the deceased Manoharan, claiming a compensation for a sum of Rs.20,00,000/- for the death of Manoharan. These three O.Ps were disposed of by the Tribunal by a common judgment dated 29.04.2005. Challenging the said award, the United India Insurance Company has filed the present appeals."

2. Heard the arguments of both sides.

3. Across the bar, the learned counsel for the appellant agrees that the compensation awarded by the Tribunal in all these three appeals is quite reasonable and that it cannot be said to be an enormous sum requiring an interference by this Court. However, he submits that this Court may consider the percentage of interest granted by the Tribunal, which is 9%.

4. The learned counsel for the respondents 1 to 3 also fairly agrees with the learned counsel for the appellant that the interest awarded at 9% is on the higher side.

5. As the liability is admitted, suffice to state that the order of the Court questioned in all these three cases are confirmed. The only modification made is in the rate of interest, which is reduced from 9% to 7.5%. It is reported that the appellant had already deposited the entire compensation amount in respect of all the three claim petitions along with interest at the rate of 9% from the date of petition. Since by this order, this Court has reduced the rate of interest granted by the Tribunal at 9% to 7.5%, the appellant is hereby permitted to withdraw the proportionate interest on making out an appropriate application before the Tribunal.

6. With the aforesaid modification in the rate of interest, all these three Civil Miscellaneous Appeals stand partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

sri

To

The Motor Accident Claims Tribunal,
Additional District Judge and Sessions Judge,
Coimbatore.

Copy to

The Section Officer
VR Section,
High Court, Madras

3 ccs to Mr.K. Suryanarayanan, Advocate, sr. 59329, 59110 & 59330
3 ccs to Mr.K. Balaji, Advocate Sr.58938

C.M.A. NOS.876 TO 878 OF 2006
& C.M.P.NOS.3404 TO 3406 OF 2006

EV (CO)
kk 22/12

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