



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE V.S.RAVI

C.M.A(MD)No.923 of 2015

The General Manager,
ICICI Lombard General Insurance Company Ltd.,
2nd Floor, Near Taluk Transport Office,
Soorath, Gujarath State.

.. Appellant/ Respondent-2

Vs.

1. Meenakshi
2. Dhanalakshmi
3. Senthil Kumar
4. Raja Chandra Sekar
5. Manu Kumar

.. 1 to 4 Respondents/ Petitioners

6. The Superintendent of Police,
Virudhunagar District.

.. 5 to 6 Respondents/Respondents 1 & 3

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to set aside the order and decretal order dated 15.04.2010 passed in M.C.O.P No.137 of 2007 on the file of the learned Subordinate Judge, Motor Accident Claims Tribunal , Sivakasi and allow this Civil Miscellaneous Appeal and thus render justice.

For Appellant : Mr.S.Srinivas Raghavan, Advocate

For R-1 to R-4 : Mr.M.Suri, Advocate

For R-5 : Mr.P.T.S.Narendravasan, Advocate

JUDGMENT

This appeal has been filed by the Insurance Company/appellant questioning the correctness of the award passed by the Tribunal dated 15.04.2010 in M.C.O.P.No.137 of 2007, in a Common Order passed in M.C.O.P.No.137 of 2007, 143 of 2007, 151 of 2007 and 3 of 2008 by the learned Subordinate Judge, Motor Accident Claims Tribunal , Sivakasi.

2. In a road accident that happened on 28.09.2007 at about 4.40P.M, the deceased, namely, Karuppaiah has expired while travelling in a Police Jeep owned by the Government bearing Registration No.TN 67-G-0094. After taking into consideration, the factual aspects and legal aspects, the Tribunal has come to the conclusion that the accident has occurred due to the rash and negligent driving of the driver of the



vehicle connected with crane bearing Registration No.TN 59-AF-2539 and also insured with the Insurance Company /appellant herein.

3.The R.W.2 who has been examined on behalf of the appellant/Insurance Company has clearly stated in his evidence that the said vehicle has been insured with the appellant/Insurance Company.

4. Further, in the Grounds of Appeal, the appellant has stated that the Tribunal has not taken into consideration the facts and evidences in the proper perspective and wrongly fixed the entire responsibility for the accident on the part of the driver of the appellant/Insurance Company. This Court has carefully considered the submissions made on behalf of the appellant in the Grounds of Appeal. The Tribunal has correctly fixed the age of the deceased Karuppaiah and the Tribunal has also perfectly arrived at the monthly salary of the deceased based upon Ex.P.20 Xerox copy of Salary Certificate and Service Register of the deceased Karuppaiya, who has worked as Sub Inspector of Police(Crime). Further, in the citation reported in 2009 (6) SCC Page 122, in the case of Sarla Verma V. Delhi Transport Corporation, it is clearly observed as follows:-

"Basically only three facts need to be established by the claimants for assessing compensation in the case of death I.e., (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. Further, the issues to be determined by the Tribunal to arrive at the loss of dependency are; (I) additions/deductions to be made for arriving at the income of the deceased; (ii) the deduction to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. If these determinants are standardised, there will be uniformity and consistency in the decisions. There will be lesser need for detailed evidence. It will also be easier for the insurance companies to settle accident claims without delay."

Accordingly, the Tribunal has applied a multiplier of 11. Thereafter, the Tribunal has fixed a compensation of Rs.16,28,000/-.

5. On a careful consideration of the entire order of the Tribunal, we do not think that the Tribunal has committed any error in fixing the monthly income or applying the multiplier.

6. Further, it is seen that the objection raised on behalf of the appellant is not sustainable. In our considered opinion, the award of compensation is in every aspect in accordance with law. The Tribunal has duly applied its mind and also determined the compensation which is just and proper. Therefore, there are no circumstances, warranting to interfere with the said determination made by the Tribunal. On facts, it is seen that the deceased Karuppaiah has worked as Sub Inspector of Police(Crime) and he has got the legal heirs, as the first claimant is being wife, the second claimant is being daughter, and third and fourth claimants are being sons. Further, the various contentions raised by the appellant in the grounds of appeal will not advance the cause of the matter of fact, the Insurance Company/ the appellant herein has not disputed the fact that the deceased has been employed in Police Department as Sub Inspector of Police(Crime). The claimants being



the legal heirs of the deceased and the Insurance Company can not deprive the legal heirs of the deceased from claiming the compensation as awarded by the Tribunal. Further, the age, multiplier and the monthly income have been perfectly fixed by the Tribunal. Therefore, the quantum of compensation has also been fixed by the Tribunal is in accordance with law. Further, the Tribunal has given cogent reasons for coming to the conclusion that the accident has happened only due to the rash and negligent driving of the driver on the part of the vehicle connected with crane bearing Registration No.TN 59-AF-2539, insured with the second respondent/appellant herein. Hence, the finding about rash and negligent driving of the said vehicle insured with the appellant herein, does not call for any interference.

7. Further, in the facts and circumstances of the present case, it is seen that the compensation arrived at by the Tribunal is perfectly valid. Further, the appellant is an Insurance Company of the vehicle connected with crane bearing Registration No.TN 59-AF-2539. Further, the facts have been rightly considered by the Tribunal, in order to ascertain the just and fair amount, the claimants are entitled to get, from the Insurance Company. Further, the Tribunal has taken into consideration, all the relevant factors of the case, while fixing the compensation payable by the appellant herein. There is no dispute regarding the fact that the accident has taken place on 28.09.2007 at about 4.40A.M. Further, there are enough records to prove that the claimants are entitled to get the amount awarded by the Tribunal.

8. On a proper appreciation of evidences and materials on record, the Tribunal has come to the correct conclusion, that the accident has occurred due to the rash and negligent driving of the driver of the vehicle connected with crane bearing Registration No.TN 59-AF-2539, insured with the second respondent/ appellant herein and the said findings of the Tribunal neither defective nor infirm and it does not warrant any interference by this Court. Further, the material on record for the present case herein would be enough to prove that the Insurance Company/appellant herein, is liable to pay the compensation amount payable to the third party victims.

9. Though, the learned counsel for the Insurance Company/appellant herein has contended that the Tribunal has committed an error in awarding the amount, as ordered, it is found that the Insurance Company/appellant herein has not raised any tenable objection to interfere with the award passed by the Tribunal. For the above mentioned discussions, it is crystal clear that the contention of the appellant/ Insurance Company is untenable and unsustainable.

10. In the result, this Civil Miscellaneous Appeal is dismissed and award passed in M.C.O.P.No.137 of 2007 dated 15.04.2010 on the file of the learned Subordinate Judge, Motor Accident Claims Tribunal, Sivakasi stands confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar



To

The Subordinate Judge,
Motor Accident Claims Tribunal ,
Sivakasi

+1cc to Mr.M.Suri, Advocate SR.No.47868

+1cc to Mr.S.Srinivasa Raghavan, Advocate SR.No.48041

C.M.A. (MD) No.923 of 2015

20 .08.2015

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