

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.1877 of 2016
& C.M.P.No.13750 of 2016

Branch Manager,
United India Insurance Company Ltd.,
Shanmuga Complex, 1-15, 24-H, First Floor,
New Edapadi Road, Shankari-637 301,
Salem District.

.. Appellant

Versus

1.V.Murugesan
2.Sheela
3.K.M.Subhashini
4.R.Alagusundram

.. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 17.02.2016 made in M.C.O.P.No.139/2014 on the file of the Motor Accidents Claims Tribunal, (Special District Judge), Krishnagiri.

For Appellant : Mr.D.Bhaskaran

J U D G M E N T

The Branch Manager of United India Insurance Company Ltd. has filed the present Civil Miscellaneous Appeal, challenging the correctness of the

impugned award dated 17.02.2016 made in M.C.O.P.No.139/2014 on the file of the Motor Accidents Claims Tribunal, (Special District Judge), Krishnagiri.

2.The case of the claimants is that on 09.01.2014 at about 06.00 a.m., when the deceased Gokulraj was travelling in the tourist bus, bearing Registration No.TN 29 AD 5335 along with others in Vaniyamadi-Ambur National Highways Road, the driver of the bus drove the same in a rash and negligent manner and dashed on the left side of the parked container lorry, bearing Registration No.TN.59.BX.8637 and caused the accident. Due to the impact, the deceased Gokulraj and three others sustained grievous injuries. As a result, the deceased died on the spot and post mortem was conducted on the body of the deceased at the Government Hospital, Ambur. According to the claimants, the accident had occurred only due to the rash and negligent driving of the driver of the said tourist bus.

3.Learned counsel appearing for the appellant would submit that only due to the parking of another lorry bearing Registration No.TN.59.BX.8637 on the road, the accident had occurred and therefore, the appellant/ Insurance Company, during the pendency of the matter, after conducting thorough investigation, finding that the said driver of the lorry should be held

responsible, moved an application seeking impleadment of the said lorry driver. But the application moved by the Insurance Company was rejected. Therefore, the learned counsel contended that the approach adopted by the learned Tribunal is wholly untenable. Moreover, the connected case filed against the Insurance Company by the other claimants is also presently pending on the file of the Motor Accidents Claims Tribunal. If the contention of the Insurance Company is taken up by the learned Tribunal in the pending matter to implead the driver of the offending lorry, which was parked on the left side of the road, the entire colour of the appeal also would be changed. Therefore, he prays for setting aside the impugned award.

4. But this Court hardly find any justification to entertain the present appeal for the following reasons: Firstly, the deceased, who was aged about 21 years, while travelling as a passenger in the vehicle insured with the appellant/Insurance Company, met with an accident. Learned counsel for the appellant would submit that the driver of the lorry, who parked the lorry in Ambur-Vellore National Highways, was the sole reason for the cause of accident. Though the accident is said to have happened, it does not mean that the lorry driver ought to have been impleaded. In any event, when the application filed by the Insurance Company for impleading the driver of the

lorry was not considered by the learned Tribunal, the contention made by the learned counsel for the appellant that the matter should be admitted till the final decision is taken, is wholly untenable. Secondly, the deceased being a poor tourist, lost his life at the age of 21 years. Learned Tribunal, considering this aspect, has not fixed any unreasonable amount of compensation. In fact when the claim of Rs.25,00,000/- was made as a total compensation payable to the claimants, the learned Tribunal has fixed less than 50% of the said claim namely Rs.12,38,000/- and adopted the right multiplier '18'. Moreover, the Tribunal, in fixing notional monthly income at Rs.10,000/-, after deducting 50% for the reason that the deceased being a bachelor and in applying the ratio laid down by the Apex Court in the case of Sarla Verma and also in adopting right multiplier, has awarded the reasonable compensation and hence, this Court is not inclined to entertain the appeal.

5. Therefore, this Court is not inclined to interfere with the impugned award and the same is confirmed. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

6. Since the learned counsel for the appellant submitted that the

appellant had deposited a sum of Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimants to move a petition before the Tribunal for withdrawing the said amount.

09.09.2016

Index : Yes / No
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To

1.The Motor Accidents Claims Tribunal,
(Special District Judge), Krishnagiri

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

T.RAJA, J.

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