

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2016

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.2083 OF 2011

M/s.United India Insurance Co. Ltd.,
No.139, Kumaran Road,
Tiruppur Taluk.

... Appellant/(2nd Respondent)

vs.

1. Radhamani
2. Minor Sobhana
3. Minor Bharaniya

(Minor respondents 2 and 3
represented by Mother
and Natural Friend 1st respondent)

4.Duraisamy

...Respondents 1to4/
Petitioners 1to3/1st respondent

(4th respondent set exparte
before the Tribunal)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.1001 of 2005, dated 28.02.2008 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.5, Coimbatore at Tiruppur.

For Appellant : Mr.N.Vijayaraghavan
For Respondents 1 to 3 : Mr.Ma.Pa.Thangavel
R4-exparte

J U D G M E N T

Challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.5, Coimbatore at Tiruppur, vide its judgment and decree dated 28.02.2008 in M.C.O.P.No.1001 of 2005, the Insurance Company has come up with this appeal.

2. On 29.01.2005 about 19.30 hours, when the deceased Samiyappan was riding his two wheeler, a Lorry bearing Registration No.TN 39 R 7263 dashed his two wheeler, due to which, he succumbed to his injuries. According to the

claimants, who are his wife and minor children, the deceased, apart from working in a Company, was doing Land Broking business and earning a sum of Rs.6,000/- per month. On consideration of the oral and documentary evidence, the Tribunal granted a sum of Rs.4,22,000/- as compensation to the claimants under the following heads along with interest at 7.5% per annum.

Heads	Compensation awarded by the Tribunal
Loss of income	Rs.3,12,000/-
Loss of consortium	Rs. 35,000/-
Loss of love and affection	Rs. 70,000/-
Funeral expenses	Rs. 5,000/-
Total	Rs.4,22,000/-

3. Learned counsel appearing for the appellant/Insurance Company contended that there was no reliable evidence on the side of the claimants to establish that the Lorry was involved in the accident. He mainly contended that the compensation awarded by the Tribunal is excessive in this case.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. It is seen from the records that the deceased was aged 50 years at the time of accident. Though it is claimed that the deceased was earning a sum of Rs.6000/- per month by working in a Company and also doing Land Broker business, the Tribunal fixed the notional income of the deceased at Rs.3000/- and applying the multiplier of '13', computed a sum of Rs.3,12,000/- (Rs.3000/- x 12 x 2/3 x '13') as compensation to the claimants, which, in view of this Court is not excessive. Also, this Court finds that the compensation granted under the heads 'Loss of consortium', "Loss of love and affection" and "Funeral expenses" are just and reasonable. Hence, this Court finds no reason to interfere with the award of the Tribunal and accordingly, it is confirmed.

6. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Insurance Company is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.1001 of 2005 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.V, Coimbatore at Tiruppur, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the 1st claimant/wife of

the deceased shall be entitled to her respective share of the award amount by means of payment in the form of a crossed Account Payee Cheque, favouring only her and it should not be issued in favour of any other person/Company. In the case of minor claimants, their respective share of the award amount shall be deposited in any of the Nationalised Banks under reinvestment scheme, initially for a period of three years renewable thereafter and the interest accrued on such deposit shall be withdrawn by their natural guardian, once in three months, till they attain majority. No costs. Consequently, connected M.P.No.1 of 2011 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Court,
The Motor Accidents Claims Tribunal,
FTC No.5, Coimbatore at Tiruppur.

2. The Section Officer, VR Section,
High Court, Madras.

+1cc to Mr.M.B. Gopalan, Advocate, S.R.No.15411

+1cc to Mr.Ma.Pa.Thangavel, Advocate, S.R.No.15382

PUR(CO)
EU(15/06/2016)

C.M.A.No.2083 of 2011

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