

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2475 of 2011

M/s. Royal Sundaram Alliance
Insurance Co. Ltd.,
'Sundaram Towers'
No.45 & 46 Whites Road
Chennai- 600 014.

... Appellant/2nd Respondent

Vs.

1. Kannamma
2. Nachiyappan
3. Rajathi
4. Rajeswari
5. Tirupathi

... Respondents 1 to 5/
Claimants

6. R. Jayakumar

... 6th Respondent/1st
Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 11.03.2011 made in M.C.O.P No.190 of 2010 on the file of the Motor Accident Claims Tribunal, (Subordinate Judge) at Vaniyambadi, Vellore District.

For Appellant : Ms. Sree Vidhya

For Respondents : Mr.P.S. Kothandaraman for R1 to 5
R6 - ex-parte

J U D G M E N T

The Insurance Company has come up with this appeal challenging the negligence and quantum of compensation awarded by the Tribunal.

2. On 13.05.2007, the deceased Perumal, while engaged in the work of loading and unloading, due to the impact of heavy electric shock on the head from Heavy Tension electricity wire, died on the spot. The Claim Petition has been filed by his wife

and children, before the Tribunal, seeking a sum of Rs.6,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a sum of Rs.4,19,400/- as compensation, under the following heads:

Sl.No	Heads	Amount
1	Loss of dependency	Rs.3,74,400.00
2	Consortium to wife/1 st claimant	Rs. 10,000.00
3	Love and Affection (Rs.5000 x5)	Rs. 25,000.00
4	Funeral Expenses	Rs. 10,000.00
	Total	Rs.4,19,400.00

3. Learned counsel appearing for the appellant/Insurance Company, challenging negligence mainly, contended that the deceased, while sitting on the top of the lorry and unloading goods, got electrocuted and died. The said occurrence has happened because the deceased Perumal was sitting on the top of the lorry, which is a clear violation of the rules and hence the Insurance company is not liable to pay the compensation. That apart, the Tribunal has erred in applying a wrong multiplier and has not deducted 1/3rd of his income, towards personal expenses. Questioning the above, this appeal has been filed.

4. On the other hand, learned counsel appearing for the respondents/claimants would submit that though the deceased was engaged in loading and unloading work and was earning Rs.200/- per day, the Tribunal has fixed the income only at Rs.100/- per day. The compensation granted under the heading "consortium" to the wife is very low. He further submitted that though the deceased was sitting on the top of the lorry, since the driver moved the lorry in a rash and negligent manner, the accident occurred and hence the appellant Insurance Company is liable to pay the compensation. On the above grounds, learned counsel prayed to dismiss this Appeal.

5. A perusal of the records would show that the deceased was aged 50 years at the time of accident. As rightly pointed out by the learned counsel, the Tribunal has fixed the income of the deceased only as Rs.100/- per day, while he was earning Rs.200/- per day. The wage for persons like the deceased cannot remain static for a longer period. The cost of living, rise in price of commodities and the value of money have to be kept in mind, for the purpose of determining the income at the relevant time. In this case, the deceased was supporting the family consisting of wife and four children. Hence, this Court is not inclined to interfere with the compensation awarded by the Tribunal and the same 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. The appellant/Insurance Company is directed to deposit the entire award amount together with accrued interest, less the amount already deposited, to the credit of M.C.O.P.No.408 of 2007 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge at Vaniyambadi, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay the compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

avr

To :

The Subordinate Judge
Motor Accidents Claims Tribunal,
Vaniyambadi, Vellore.

copy to: The Section Officer,
VR section, High Court Madras

+1 cc to M/s.R.Sree Vidhya Advocate sr.12669/16

+1 cc to Mr.P.S.Kothandaraman Advocate sr.12646/16

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