

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

C O R A M

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2488 of 2015
and M.P.No.1 of 2015
and CMP.No.4862 of 2016

United India Insurance Co.Ltd.,
No.70, N.S.C.Bose Road
III Floor, Sowcarpet
Chennai-600 079 ...Appellant/2nd Respondent

Vs

1.Mina Takur ...1st Respondent/1st Petitioner
2.Ram Kishore Thakur ...2nd Respondent/2nd
petitioner
3.M/s.Ammayapper Roadways
230, Linghi Chetty Street
Chennai-600 001 ... 3rd Respondent/1st
Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1989, against the judgment and decree dated 19.03.2015 made in M.C.O.P.No.2766 of 2011 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For appellant : Mr.S.Arun Kumar

For respondents : Mr.S.Ravi Kumar for R1 and R2
for R3-not ready in notice.

JUDGMENT

Judgment of the Court was delivered by R.SUDHAKAR, J.)

The United India Insurance Company is on appeal challenging the award dated 19.03.2015 passed in M.C.O.P.No.2766 of 2011 on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes) Chennai.

2. It is a case of fatal accident. As per the claim petition filed before the Tribunal in M.C.O.P.No.2766 of 2011 by respondents 1 and 2 herein/claimants viz., father and mother of

the deceased, it is stated that on 02.04.2011 at about 23.45 hours, when the deceased/Dhiraj was going on in his motor cycle bearing Regn.No.TN-02-AP-6034 along with pillion rider at P.H.Road, opposite to Somathamankoil, Koyambedu, Chennai, proceeding from west to east, at that time, a Trailer Lorry bearing Reg.No.TN-04-J-4389 proceeding in the opposite direction was driven in a rash and negligent manner and came in the wrong side of the road and dashed against the Motor Cycle, thereby, the deceased and the pillion rider were thrown out and they sustained grievous injuries. The injured Dhiraj was admitted in the VEE Care Hospital, Chennai, but he died on 03.04.2011. According to the claimants, the deceased was a 19 years old student. They claimed compensation of Rs.15,00,000/-.

3. In support of the claim, before the Tribunal, the second claimant, the father of the deceased was examined as P.W.1. One Mr.Gangadharan was examined as P.W.2. Mr.R.Prakash, said to be an eye witness was examined as P.W.3. Exs.P.1 to P.8 were marked and the details of which are as follows:-

Ex.P.1 - Copy of FIR in Cr.No.61/KM2/2011 registered at K-10 Koyambedu Police Station, Chennai-600 107.
Ex.P.2 - Rough Sketch
Ex.P.3 - Copy of Charge Sheet
Ex.P.4 - Post Mortem Certificate
Ex.P.5 - Death Report
Ex.P.6 - Legal Heir Certificate
Ex.P.7 - Authorisation Letter
Ex.P.8 - Deceased studies related document.

4. On the side of the appellant/Insurance Company, no witness was examined and no document was marked.

5. The Tribunal based on the available evidence before it, held that the accident occurred solely due to rash and negligent driving of the driver of the 3rd respondent vehicle i.e, Trailer Lorry and the appellant herein, being the insurer, both the 3rd respondent herein and the appellant herein are liable to pay compensation. On such finding, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Pecuniary loss is calculted as Rs.7500 x 12 x 18	Rs.16,20,000/-
2	Funeral expenses	Rs. 25,000/-
3	Loss of love and affection	Rs. 50,000/-
	Grand Total	Rs. 16,95,000/-

6. The learned counsel for the appellant-Insurance Company submitted that there is no dispute as regards the liability aspect. The learned counsel, however argued that the Tribunal erred in adding 50% towards future prospects and fixing the monthly income at Rs.15,000/- for the deceased, inspite of the fact that job opportunity for BE graduates is at stake. The learned counsel for the appellant also made a plea that the multiplier of 18 adopted is on the higher side and sought for reducing the quantum of compensation.

7. The learned counsel appearing for respondents 1 and 2/claimants submitted that the compensation granted by the Tribunal is very meagre for a student who is studying B.E.Graduation and therefore sought for confirming the award.

8. This court, carefully perused the award of the Tribunal and the submissions made on both sides before this court.

9. On going through the award, it is seen that considering the age of the deceased that is 19-20 years, the Tribunal by relying on the decision reported in 2009 5 L.W. Page 561 [Sarala Verma and others Vs. Delhi Transport Corporation and another], adopted multiplier of 18, taken monthly income of the deceased at Rs.15,000/- and deducted $\frac{1}{2}$ towards his personal expenses since because he was a bachelor and calculated the pecuniary loss as Rs.7500 x 12 x 18 =Rs.16,20,000/-. We find that the above calculation is absolutely justifiable and the compensation granted under other heads are also just and reasonable.

10. In view of the above reasoning, we find no error in the award passed by the Tribunal and we deem it fit to confirm the award. Accordingly, we confirm the compensation granted by the Tribunal and the Civil Miscellaneous Appeal is dismissed.

- (i) The award fixed by the Tribunal at Rs.16,95,000/- is confirmed.
- (ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.
- (iii) This court by order dated 03.11.2015 directed the appellant/Insurance Company to deposit entire award amount with accrued interest.

- (iv) The claimants are permitted to withdraw the award amount with accrued interest as per the apportion fixed by the Tribunal.
- (v) There will be no order as to costs in this appeal.
- (vi) Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

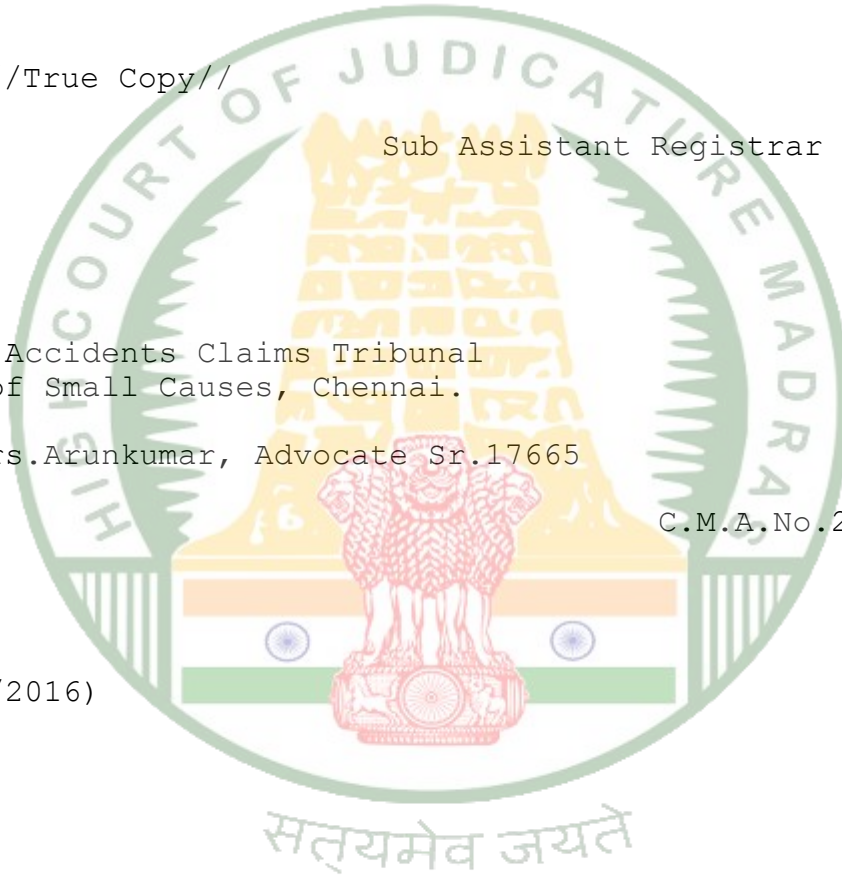
To

The Motor Accidents Claims Tribunal
II Court of Small Causes, Chennai.

+1cc to Mrs.Arunkumar, Advocate Sr.17665

C.M.A.No.2488 of 2015

mg (CO)
srg(05/05/2016)



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