

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.250 of 2014

United India Insurance Company Ltd.,
Tuticorin. .. Appellant/ 2nd Respondent

Versus

1.K.Rajaram
2.Lingammal
3.R.Gopinath
4.B.Rajesh Rahuram .. Respondents/ Petitioner/
I Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 13.12.2012 made in M.C.O.P.No.161/2011 on the file of the Motor Accidents Claims Tribunal, (Sub Court), Udumalpet.

For Appellant : Mr.S.Arun Kumar

For Respondents: Mr.R.Babu for
Mr.S.Gunalan for R1 to R3

For Respondent No.4: No appearance

J U D G M E N T

Aggrieved over the impugned award dated 13.12.2012 made in M.C.O.P.No.161/2011 on the file of the Motor Accidents Claims Tribunal, (Sub Court), Udumalpet in awarding a sum of Rs.12,25,000/- as against the claim of Rs.25,00,000/-, the Insurance Company has brought this appeal questioning the quantum of compensation.

2.According to the claimants, on 26.02.2011 at about 11.150 p.m., when the deceased was driving his Yamaha Motor Cycle bearing Registration No.TN 42 X 8651 from East to West of Palani-Udumalpet Main Road and nearing Rajendra Rice Mill, a Skoda Fabia Car bearing Registration No.TN 07 AR 5314, driven by the fourth respondent, came from West to East direction and dashed the deceased. Due to the sudden impact, the deceased was thrown over the road and sustained severe head injury and multiple injuries all over his body. Immediately after the accident, the deceased was admitted at Government Hospital, Udumalpet. But due to the grievous injuries, he died at the hospital. According to the claimants, the accident had happened due to the rash and negligent driving of the driver of the car.

3.Learned counsel appearing for the appellant would submit that as the deceased was a bachelor, the learned Tribunal would have deducted 50% of the income towards his personal expenses. He would further submit that the learned Tribunal ought not to have applied more than 11 as a multiplier, when considering the age of the mother of the deceased as 51 years and therefore, a huge sum of Rs.12,25,000/- has been awarded towards total compensation, without any basis and hence, the same needs interference.

4.Per contra, learned counsel for the claimants would submit that while applying the multiplier, the learned Tribunal, without considering the age of the deceased, has taken the age of the mother of the deceased and thereby, arrived at a meagre amount towards loss of income by adopting '15' as a multiplier instead of adopting '17'. He would further submit that a meagre amount of Rs.20,000/- and Rs.5,000/- have been awarded under the heads 'loss of love and affection' and 'funeral expenses' and therefore, the same need enhancement.

5.While the learned Tribunal has fixed Rs.10,000/- as notional monthly income of the deceased, considering Exs.P6 to P24, it ought not to have made deduction of 1/3rd towards personal expenses of the deceased when he was a a bachelor at the time of accident. Therefore, this Court is inclined to modify the same. Accordingly, 50% of the income is to be deducted towards personal expenses of the deceased and the same is hereby deducted. Learned Tribunal has committed apparent mistake in adopting the multiplier '15' by taking the age of the mother of the deceased and therefore, considering the age of the deceased, this Court is inclined to apply the multiplier '17' and the same is hereby applied. With regard to the head 'loss of love and affection', as the learned Tribunal has awarded only a sum of Rs.20,000/-, this Court is inclined to fix Rs.50,000/- each towards loss of love and affection and the same is hereby fixed. As the learned Tribunal has awarded a meagre amount of Rs.5,000/- towards funeral expenses, this Court is inclined to award Rs.25,000/- towards the same and the same is hereby fixed.

The modified compensation as per the above discussion are as follows:

Loss of income (10000-50/100x12x17)	...Rs.10,20,000/-
Loss of love and affection	...Rs. 1,00,000/-
Funeral expenses	...Rs. 25,000/

Total	...Rs.11,45,000/-

6.It is submitted that 50% of the award amount has already been deposited by the Insurance Company. Therefore, the Insurance Company/ appellant herein is directed to deposit the balance amount with interest at 7.5% per annum, within a

period of four weeks from the date of receipt of a copy of this order. On such deposit, claimants 1 and 2 are entitled to withdraw the modified amount as apportioned by the learned Tribunal, on making proper application.

7. Accordingly, the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1.The Motor Accidents Claims Tribunal,
(Sub Court), Udumalpet.

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

1 cc to M/s.S. Gunalan, Advocate, Sr. 66159

1 cc to Mr.S. Arunkumar, Advocate, Sr. 67287

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