

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2016

CORAM

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

C.M.A.No.3349 of 2014
and M.P.No.1 of 2012
and
Cross.Obj.No.113 of 2014

M/s.Iffco Tokio General Insurance Co. Ltd.,
New No.28, 2nd Floor,
North Usman Road,
T.Nagar, Chennai-600 017.

... Appellant/2nd Respondent and
1st respondent/appellant in
Cross.Obj.No.113 of 2014

vs.

1.Indira
2.Vijitha

...Respondents 1 & 2/Petitioners and
Cross appellants/ 1 & 2 respondents
in Cross.Obj.No.113 of 2014

B.Rajesh

...3rd Respondent/1stRespondent and
3rd respondent/3rd respondent in
Cross.Obj.No.113 of 2014

Civil Miscellaneous Appeal is filed under Section 173 of
Motor Vehicles Act, 1988 against the award and decree dated
31.07.2014 passed in M.C.O.P.No.563 of 2011 on the file of the
Motor Accidents Claims Tribunal (IV Small Causes Court), Chennai.

Cross Objection is filed under Order 41 Rule 22 of C.P.C.
against the award and decree dated 31.07.2014 passed in
M.C.O.P.No.563 of 2011 on the file of the Motor Accidents Claims
Tribunal (IV Small Causes Court), Chennai.

For Appellant : Mr.N.Vijayaraghavan

For Respondents: Mr.V.Velu for- R1 and R2

JUDGMENT

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

The Insurance Company is on appeal challenging the award dated 31.07.2014 passed in M.C.O.P.No.563 of 2011 on the file of the Motor Accidents Claims Tribunal (IV Small Causes Court), Chennai.

2. It is a case of fatal accident. On 19.12.2010 at about 14.00 hours, when the deceased Harish, aged about 24 years, was travelling as a pillion rider in the two wheeler Bajaj Discover bearing Registration No.TN.07.BF.2175 from Madurantakam to Chiravadi going at Chiravadi at that time, the rider of the two wheeler riding the same in a rash and negligent manner with very dangerous speed, met with an accident, thereby the deceased Harish died on the spot. The claimants, who are mother and sister of the deceased have filed a claim for compensation for a sum of Rs.20,00,000/-. According to the claimants, the deceased was working as Lab Technician and was earning a sum of Rs.15,000/- per month.

3. In support of the claim, the mother of the deceased was examined as P.W.1; one Kannan, who is stated to be the eye witness to the accident was examined as P.W.2 and one K.Umapathy, who is employer of the deceased, was examined as P.W.3, and Ex.P-1 to Ex.P-8 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Copy of the First Information Report
P2	Copy of Legal Heirship Certificate
P3	Copy of Postmortem Certificate
P4	Copy of Transfer Certificate
P5	Salary Certificate
P6	Copy of Family Card of PW1
P7	Copy of driving license of PW2
P8	Copy of driving license of PW3

On behalf of the Insurance Company, no witness was examined and no documents were marked.

4. The Tribunal based on the oral evidence of the witnesses, and the F.I.R. came to the conclusion that the rider of the two wheeler riding the two wheeler in a rash and negligent manner and was responsible for the accident and consequently liability was fixed on the appellant Insurance Company, since the

two wheeler was insured with the appellant, to compensate the claimants. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of Dependency	Rs.12,96,000/-
2	Loss of Love, Happiness, paternal care and mental shock	Rs. 1,00,000/-
3	Funeral Expenses	Rs. 10,000/-
	Total	Rs.14,06,000/-

6. The objection raised by the learned counsel appearing for the appellant is with regard to the quantum of compensation awarded by the Tribunal towards Loss of income. He further submits that the Tribunal has ignored the age of mother and adopted a higher multiplier and awarded Rs.12,96,000/- towards pecuniary loss.

7. Insofar as the quantum of compensation is concerned, based on the evidence of P.W.1 as against the income of Rs.15,000/- per month claimed, the Tribunal fixed the notional income of the deceased at Rs.9,000/- per month in respect of the 24 years old deceased.

8. The Tribunal considering the salary certificate of the deceased had fixed the income after deducting 1/3rd towards personal expenses. Considering the employment of the deceased, we feel that the income arrived at by the Tribunal is correct. It is seen that the Tribunal had adopted 18 multiplier. Since the deceased is aged 24 years at the time of accident, the proper multiplier adopted should be 18. Hence, adopting multiplier 18 the income should be Rs.1,08,000 x 18 = Rs.19,44,000/-. After deducting 1/3rd towards personal expenses, the income of the deceased comes to Rs.12,96,000/-. Hence, we do not interfere with the loss of income awarded by the Tribunal. Further, the Tribunal has granted a sum of Rs.1,00,000/- towards loss of love and affection and a sum of Rs.10,000/- has been granted towards funeral expenses and totally the Tribunal has awarded a sum of Rs.14,06,000/- as compensation. Therefore, this Court finds no good reason to reduce the quantum of compensation awarded.

9. There is no serious objection in respect of the other amounts granted or the interest granted at 7.5% per annum.

10. The claimants have also filed Cross Objection seeking enhancement of compensation. Since we see no reason to interfere with the award, we are not inclined to entertain the cross objection.

11. Finding no merit, the Civil Miscellaneous Appeal and Cross Objection are dismissed. This Court, by order dated 05.12.2015 directed the appellant to deposit the entire award amount with interest and costs. Learned counsel appearing for the appellant submits that the entire award amount has been deposited as per the order of this Court. The respondents/claimants are permitted to withdraw their respective share as ordered by the Tribunal. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

sl

To

The Motor Accidents Claims Tribunal
IV Small Causes Court.
Chennai.

1 cc to Mr.N. Vijayaraghavan, SR. 14185
1 cc to Mr.V. Velu, Advocate, Sr. 13733

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TEJ (CO)
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