

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.3050 of 2008

1. M.Vidyasekar
2. V.Rajeswari. ... Appellants/claimants

Vs.

1. S.Karthikeyan
2. M/s.Premier Industries,
No.670, Trichy Road,
Singanallur, Coimbatore.
3. The United India Insurance Company Ltd.,
Divisional Office No.4, 1940-B,
Trichy Road, Ramanathapuram, Coimbatore.
4. S.P.Bushkaran
5. P.M.Benzan
6. National Insurance Company Ltd.,
Trichur Branch Office,
Pattalam Road,
Post Box No.89, Trichur,
Kerala State. ... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the award passed by the Hon'ble Motor Accident Claims Tribunal Cum Sub-court, Coimbatore, made in M.A.C.T.O.P.No.1013/98 DATED 28.04.2003.

For Appellants : Mr.S.Stalin Muthu

For Respondents: No Appearance

J U D G M E N T

The claimants have lost their little daughter, aged 5 years, in a road accident has come forward with this appeal, seeking enhancement of compensation.

2. On 14.03.1998, the claimants, the parents of the victim of the road accident, along with their child Shilpanjali, were travelling in a Maruthi Car, bearing Registration No.TN 37F 900, on their return journey from Guruvayur to Coimbatore. While so, a tempo traveller, bearing Registration No.KL-8D/538, driven by the fourth respondent, belonging to the fifth respondent and insured with the sixth respondent, came from east to west on the

wrong side of the road and collided with the car in which the claimants and their child were travelling. In the accident, the child died, whereas the claimant suffered injuries. Seeking compensation for the loss of the child in the road accident, the parents had moved the Motor Accidents Claims Tribunal, seeking a total compensation of Rs.5,00,000/-, against which, the Tribunal has passed an award for Rs.57,700/- in all. The Tribunal had found that the negligence of the driver of tempo traveller, the fourth respondent before it, has resulted in the accident. Before this Court despite serving notice on respondents 4 to 6, none appeared.

3. The learned counsel for the appellant submitted that for the death of a child aged 5 years, the Tribunal was unconscionably parsimonious in awarding an inconsequential Rs.50,000/- as compensation and has not awarded towards loss of love and affection.

4. Neither the owner of the vehicle nor the Insurance Company have appeared despite service of notice.

5. I perused the materials available on record as well as the award and I find that the award passed for the loss of child in a road accident. This child was a morning flower and was not allowed to blossom for no fault of hers. I therefore award Rs.2,50,000/- [Rupees two lakhs and fifty thousand only] towards the loss of the child and Rs.1,00,000/- for the loss of love and affection.

6. The compensation award of other heads is confirmed and the total compensation is now fixed at Rs.3,57,700/- and the same is directed to be paid with interest at 7.5% p.a.

The Civil Miscellaneous Appeal is allowed with costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kmi

To

1. National Insurance Company Ltd.,
Trichur Branch Office,
Pattalam Road,
Post Box No.89, Trichur, Kerala State.

2. The United India Insurance Company Ltd.,
Divisional Office No.4, 1940-B,
Trichy Road, Ramanathapuram, Coimbatore.

3.The Motor accidents Claims Tribunal/
Subordinate Judge, Coimbatore

4.The Section Officer
VR Section HighCourt Madras

C.M.A.No.3050 of 2008

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