

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Civil Miscellaneous Appeal No.1523 of 2014
and
M.P.No.1 of 2014

M/s.Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers,
No.45 & 46, Whites Road,
Chennai - 600 014 ... Appellant/2nd Respondent

Vs

1.M.Alamelu Mangai
W/o.Late Mohan

2.Surendar Kumar
S/o.Late Mohan

3.Saranya
D/o.Late Mohan

4.Suganya
D/o.Late Mohan

5.N.Nachaiyar Ammal
W/o.Muthusamy

..Respondents 1 & 5/Petitioners

6.P.Mohan
S/o.Periyanan

..6th Respondent/1st Respondent

Civil Miscellaneous Appeal filed u/s.173 of Motor Vehicles Act, 1988, against the award of Motor Accident Claims Tribunal, IV Additional District Court, Ponneri, passed in M.C.O.P.No.39 of 2011 on 14.08.2012.

For Appellant : Mr.N.Vijayaraghavan

J U D G M E N T

[Judgment of the Court was made by C.T.SELVAM, J.]

This appeal arises against the judgment of Motor Accident Claims Tribunal, IV Additional District Court, Ponneri, passed in M.C.O.P.No.39 of 2011 on 14.08.2012.

2. Heard learned counsel for appellant insurance company.

3. Appellant is a Insurance Company. Respondents 1 to 5 are legal heirs of deceased. Sixth respondent is the owner of the offending vehicle. On 29.07.2010 at about 04.45 p.m., while deceased was walking on the road, a lorry bearing registration No.TN-30-K-3605, driven in a rash and negligent manner, dashed against him, owing to which deceased sustained grievous injuries and met his instantaneous death.

4. Before Tribunal, respondents 1 to 5/claimants have examined 2 witnesses and marked 11 exhibits. Three witnesses were examined on the side of appellant insurance company and 8 exhibits were marked. On appreciation of materials before it, Tribunal, under judgment dated 14.08.2012, found that the death has occurred owing to the rash and negligent driving of the lorry. To prove the avocation of deceased, respondents 1 to 5 have marked Ex.P9, salary certificate and on the basis of the same, Tribunal has fixed the monthly income of deceased at Rs.26,000/-. As the dependents were 5 in number, Tribunal had deducted 1/4th towards personal expenses, fixed the annual income at Rs.2,34,000/- [(26,000 - 6,500)*12], applied multiplier 13 and arrived at loss of income at Rs.30,42,000/- [2,34,000*13]. This Court finds that a reasonable sum of Rs.10,000/- towards funeral expenses, Rs.10,000/- towards loss of consortium and Rs.20,000/- towards loss of love and affection has been awarded. The total compensation has been arrived at Rs.30,82,000/-. However, since respondents 1 to 5/claimant have claimed only a sum of Rs.20,00,000/- towards compensation, Tribunal has restricted compensation to such amount. Appellant Insurance Company was directed to pay Rs.20,00,000/- together with interest at 7.5% p.a. from the date of claim petition till the date of payment. The Tribunal has also directed due apportionment of the compensation amount between claimants inter alia directing deposit of 50% of the share of respondents 1 to 4 in a nationalised bank for a period of three years. We find no error in the order under challenge.

The Civil Miscellaneous Appeal is dismissed. The judgment and decree of Motor Accident Claims Tribunal, IV Additional District Court, Ponneri, passed in M.C.O.P.No.39 of 2011 on 14.08.2012, is confirmed. Appellant Insurance Company is directed to deposit the amount awarded less that already deposited within a period of six weeks from the date of receipt of this judgment. Respondents 1 to 5/claimants are at liberty to withdraw the amount on due application as apportioned by Tribunal. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrr/gm

To
The Motor Accident Claims Tribunal,
IV Additional District Court,
Ponneri.

+1 cc to Mr.N.Vijayaraghavan Advocate sr 83943

Civil Miscellaneous Appeal No.1523 of 2014

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