IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2017

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THE HONOURABLE DR.JUSTICE.S.VIMALA

Civil Miscellaneous Appeal No.1886 of 2017

and M.P.No.10126 of 2017

The Manager,
M/s. Reliance General Insurance Company Limited,
No.6 Haddows Road, Opp. Sastri Bhavan,
Chennai - 600 006
.. Appellant / R-2 before the Tribunal

Vs

1. B.Ambigapathy
2. Devi
3. Savithri
4. Kavitha ... R-1 to R-4 / claimants
5. G.Dhandapani ... R-5 / R-1 before the Tribunal / owner of the vehicle

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set-aside the decree and Judgment, dated 07.10.2016 made in MCOP No.73 of 2012 on the file of Motor Accident Claims Tribunal, District Court - II, Kanchipuram.

For Appellant : Mr. N.Vijaya Raghavan
For Respondents : Mr. S.Sankaralingam

JUDGMENT

In the absence of post-mortem on the body of the deceased, thereby establishing the cause of death, whether the finding of the Tribunal that the death was on account of the injuries sustained in the accident is sustainable is the issue raised in this Civil Miscellaneous Appeal.

2. The main contention raised by the Insurance Company is that the claimants failed to establish that the death was due to injuries and that the cause of action did not survive to the claimants and thus the claim petition is not maintainable.

3. It is the case of the claimants before the Tribunal that Sarathkumar, who was aged 19, employed as a cleaner in the lorry under the first respondent in the claim petition / fifth respondent in the Appeal, sustained injuries in the

accident on 15.12.2010 and he later died on 02.01.2011, i.e., on the 18th day of the accident. It is stated in the claim petition itself that the deceased originally sustained grievous injuries over the head as well as over other parts of the body and he later died in the hospital on 02.01.2011.

4. The Tribunal has not framed any specific point for determination, as to whether the death of the deceased was on account of the injuries sustained in the accident and perhaps that has resulted in the omission on the part of the claimants in filing the post-mortem report, even though postmortem has been done on the body of the deceased.

5. At the time of admission, the learned counsel appearing for the appellant / Insurance Company would point out that there was no proof adduced before the Tribunal to show that the death of the deceased was on account of the injuries sustained. Thereafter, this Court directed the claimants to produce the postmortem report. The postmortem report, dated 03.01.2011, has been produced before this Court.

6. A perusal of the postmortem report would go to show that the cause of death has been specifically mentioned in the report and the Doctor, who has conducted the postmortem, has given a opinion that the deceased appeared to have died on effects of spinal injuries sustained. Therefore, by production of the postmortem report, it has now been proved before this Court that the death was on account of the injuries sustained. This document is taken on file as Ex.X-1.

7. As there was no issue regarding the point as to whether the death of the deceased was on account of the injuries sustained, there is no discussion regarding the details of the injuries sustained, period of treatment and the consequences of injuries, etc., and that has driven the Insurance Company to file this Appeal.

8. So far as the quantum of compensation is concerned, it is also reasonable. When the deceased was aged 19, earning a sum of Rs.6,000/- per month, the Tribunal has taken the monthly income at Rs.6,000/-, adding 50% towards the future prospects and deducting 50% towards personal expenses, adopting the multiplier of 18, the Tribunal has quantified the compensation at Rs.9,72,000/-. Awarding loss of love and affection at Rs.50,000/- only to parents and awarding Rs.20,000/- towards transport and funeral expenses, the total amount has been quantified. Thus, the quantum awarded is also reasonable. Thus, the Appeal has no grounds and therefore, the Appeal is liable to be dismissed.

9. In the result, this Civil Miscellaneous Appeal has no merits and hence, the appeal is dismissed. No costs. Consequently, the connected CMP is closed.

10. The appellant / Insurance Company is directed to deposit the entire compensation amount, as awarded by the Claims Tribunal, along with interest at 7.5% per annum, from the date of petition till the date of receipt, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. The compensation is payable to respondents 1 and 2 herein in equal proportion, as ordered by the Claims Tribunal.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

srk

To
1.Motor Accident Claims Tribunal,
District Court - II, Kanchipuram.

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

+2cc to Mr.S.Sankaralingam, Advocate SR.No.54785
+1cc to Mr.M.B.Gopalan Associates, Advocate SR.No.54800

C.M.A.1886 of 2017
& M.P.No.10126 of 2017

GN(06/12/2017)