

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.924 of 2015
and MP.No.1 of 2015

Oriental Insurance Company Limited,
No.115/216, Prakash Road,
T.P.Cell, 4th Floor, Chennai - 600 108.

...Appellant/2nd Respondent

vs.

1. J.P.M.Anthony
2. Rosina Anthony
3. Anthony Shashi Kumar
4. Karishma Maria Anthony ...Respondents 1 to 4/Petitioner
5. B.Chitrababu ...5th Respondents/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order in MCOP No.5304 of 2012 dated 11.07.2014 on the file of Motor Accidents Claims Tribunal, [II Court of Small Causes], Chennai.

For Appellant : Ms.C.Harini
for Mr.N.Vijayaraghavan

For Respondents: Mr.P.Shanmugasundaram (for R1 to R4)

J U D G M E N T
सत्यमेव जयते

[Order of the Court was made by S.MANIKUMAR, J.]

For the death of a Bachelor, aged about 29 years, stated to be an Assistant Concept Manager in Arvind Retail Limited [Mega Mart], Chennai and earned Rs.30,000/- per month, parents, brother and sister filed MCOP No.5304 of 2012, on the file of the MACT [II Court of Small Causes], Chennai claiming compensation of Rs.72,00,000/- under various heads. According to them, that on 06.10.2012, at 9.00 hours, when the deceased was riding a motorcycle bearing Regn.No.KA01EV8020, near Vir

negligent manner hit the motorcycle from behind and in the result, the motorcyclist sustained grievous injuries and later on died in the hospital on 08.10.2012. In this regard, a case in Cr.No.510/TN3/2012 has been registered against the driver of the lorry, on the file of R4 Traffic Investigation, Pondy Bazaar Police Station, T.Nagar.

2. Though, Oriental Insurance Company Limited, appellant herein, disputed the manner of accident, and liability to pay compensation, having regard to the oral and documentary evidence, Ex.P1 to P21, marked on the side of the legal representatives of the deceased, the claims tribunal, came to the conclusion that the driver of mini lorry bearing Regn.No.TN20AE 4874, was negligent in causing the accident. Evaluating the evidence, claims tribunal has accepted the avocation and by fixing the monthly income of the deceased as Rs.22,000/- and having regard to the decision of the Hon'ble Supreme Court in Rajesh and others vs. Rajbir Singh and others reported in 2013 (2) TNMAC 55 (SC), added 50% of the income under the head future prospects.

3. Following the decision of the Hon'ble Supreme Court in Amrit Bhanu Shali and others Vs. National Insurance Company Limited and others, reported in 2012 (2) TNMAC 321 and Smt.Sarla Varma & others Vs. Delhi Transport Corporation and another, reported in 2009 (5) LW 561, the tribunal applied '17' multiplier. Deceased was a bachelor, and hence the tribunal deducted 50% of the income determined and arrived at a sum of Rs.33,66,000/- towards loss of contribution to the family ie. [Rs.22,000/- + Rs.11,000/-] x 12 x 17 x 50%.

4. In addition to the above, the tribunal awarded Rs.1,00,000/- each under the head loss of love and affection to the respondents 1 and 2 herein, and Rs.50,000/- each to the respondents 3 and 4. Altogether, awarded Rs.3,00,000/- under the head loss of love and affection. Based on Ex.P18, Medical Bills, the tribunal awarded Rs.2,00,000/- as medical expenses and Rs.25,000/- for funeral expenses. Altogether, the tribunal awarded Rs.38,91,000/- as compensation, with interest at the rate of 7.5% per annum.

5. The only contention raised in this appeal that the tribunal has erred in applying '17' multiplier, having regard to the age of the deceased and that the tribunal ought to have taken the multiplier applicable to the age of the parents, is no longer res integra, in the light of the decision of the Hon'ble Supreme Court in Amrit Bhanu Shali and others Vs. National Insurance Company Limited and others, reported in 2012 (2) TNMAC 321 and therefore, the said contention is rejected. Methodology

adopted by the tribunal in computing the loss of contribution to the family and award under other heads, is just and reasonable. Hence, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

6. Ms.C.Harini, learned counsel for the Oriental Insurance company appellant herein submitted that the entire award amount with proportionate interest from the date of claim till deposit and costs, has already been deposited to the credit of MCOP No.5304 of 2012 on the file of Motor Accidents Claims Tribunal, [II Court of Small Causes], Chennai and out of the said deposit, 50% has been permitted to be withdrawn.

7. In view of the dismissal of the appeal, legal representatives of the deceased / respondents are at liberty to seek for withdrawal of the balance amount by making necessary application.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
[II Court of Small Causes], Chennai

+1cc to Mr.P.Shanmugasundaram, Advocate, S.R.No.22207
+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.22316

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and MP.No.1 of 2015

SJ(CO)
RS(16/05/2017)

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