

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Civil Miscellaneous Appeal No.2375 of 2014

National Insurance Co., Ltd.,
No.751, Anna Salai,
Chennai-2.

.. Appellant/2nd Respondent

-Vs-

1.S.Bhavani
2.M.Natarajan
3.N.Priyanka
4.A.Kathiresan

..1 to 3 Respondents/Petitioner
.. 4th Respondent/1st Respondent

Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 10.12.2013 made in M.A.C.T.O.P.No.5876 of 2011 on the file of Motor Accidents Claims Tribunal (III Judge, Court of Small Causes) at Chennai.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Mr.R.Kalai Arasan
for RR1 to 3

R4-Ex-parte before Court below

J U D G M E N T

[Judgement of the Court was delivered by C.T.SELVAM, J.]

This Civil Miscellaneous Appeal arises against the judgement and decree dated 10.12.2013 made in M.A.C.T.O.P.No.5876 of 2011 on the file of Motor Accidents Claims Tribunal (III Judge, Court of Small Causes) at Chennai.

2. Appellant is the Insurance Company. Respondents 1 to 3 are legal heirs of the deceased Santhosh. On 22.11.2011, at

about 10.40 hours, while the deceased was riding a two wheeler bearing Registration No.TN-02-Y-6321, a Tipper Lorry bearing registration No.TN-30-H-0590 dashed against the two wheeler, due to which the deceased died on the spot. Claimants sought compensation in a sum of Rs.80,00,000/-.

3. Before the Tribunal, on the side of respondents 1 to 3/claimants, 3 witnesses were examined and 17 exhibits were marked. None were examined on behalf of appellant Insurance Company nor any exhibits were marked.

4. On appreciation of materials before it, Tribunal, under judgment dated 10.12.2013, found that the death has occurred owing to the rash and negligent driving of the Tipper Lorry. To prove the avocation of the deceased, respondents 1 to 3 have marked Ex.P11, salary certificate and on the basis of the same, Tribunal has fixed the monthly income of the deceased at Rs.64,059/-. As the dependants are parents and sister, Tribunal had deducted 1/2 towards personal expenses and fixed the annual income at Rs.3,84,360/- $[(64059 - 32,029.5) \times 12]$.

5. Learned counsel for appellant primarily submitted that the loss of income has been arrived at by the Tribunal by taking into consideration the age of the deceased. Learned counsel for appellant, by placing reliance on the judgement of Supreme Court in U.P.State Road Transport Corporation and Others Vs. Trilok Chandra and Others [(1996) 4 SCC 612], informs that the age of the victim/claimant would have to be taken into consideration. However, learned counsel for respondents/claimants, places reliance on the judgement of Full Bench of Supreme Court in Munna Lal Jain and another Vs. Vipin Kumar Sharma and others [2015 (1) TN MAC 814 (SC)] which informs that it is the age of deceased that has to be taken into account. He also placed reliance on the judgment of Supreme Court in New India Assurance Company Limited Vs. Smt.Shanti Pathak and others [2007 (2) TN MAC 84 (SC)] in support of such submission.

6. On consideration of the facts of the case, we find no reason to interfere with the finding of the Tribunal in any manner.

7. Accordingly, the Civil Miscellaneous Appeal shall stand dismissed. The judgment and decree dated 10.12.2013 made in M.A.C.T.O.P.No.5876 of 2011 on the file of Motor Accidents Claims Tribunal (III Judge, Court of Small Causes) at Chennai,

are confirmed. It is represented that the entire amount as awarded by the Tribunal has been deposited and 50% thereof, withdrawn by the respondents. It is now open to the respondents to withdraw the balance amount. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kmi

To

1. The III Judge,
Motor Accidents Claim Tribunal,
Court of Small Causes,
Chennai.
2. National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai-2.
3. The Section Officer,
V.R.Section, High Court,
Chennai-104. (2 Copies)

+1cc to Mr.M.Krishnamoorthy, Advocate, S.R.No.76043
+1cc to Mr.N.M.Muthurajan, Advocate, S.R.No.75963

C.M.A.No.2375 of 2014

ssd(co)
cs/06/02/18

सत्यमेव जयते

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