IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2017

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THE HONOURABLE Dr. JUSTICE. S.VIMALA

C.M.A.No.433 of 2017
and C.M.P.No.2959 of 2017

United India Insurance Co. Ltd.,
No.346-17-01, 27th Cross, 3rd Block,
Jayanagar, Bangalore - 11.
Rep. by its Branch Manager. .. Appellant/2nd Respondent

versus

1. Vediammal
2. Rajan
3. Chinnapappa ..Respondents 1 to 3/Petitioners
4. Mohammed Zaheer ..Respondent No.4/1st Respondent

(R4 remained ex parte before the Tribunal)

Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 28.09.2004 made in M.A.C.T.O.P.No.1033 of 2003 on the file of the Motor Accident Claims Tribunal (Sub Judge), Krishnagiri.

For Appellant : Mr.K.Suryanarayanan

JUDGMENT

The deceased, Murugesan, aged 21 years, working as a Driver, earning a sum of Rs.6,000/- p.m. met with an accident 23.08.2001 at about 21.45 hrs. and died on the spot due to fatal injuries. Hence, the legal representatives of the deceased, namely, the parents and widow sister of the deceased filed a claim petition before the Motor Accident Claims Tribunal (Sub Judge), Krishnagiri, in M.A.C.T.O.P.No.1033 of 2003, claiming compensation of Rs.10,00,000/-.

2. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.5,43,000/- as compensation, the break-up details of which are as under:

Loss of dependency		Rs.4,08,000/-
Funeral Expenses	-	Rs. 25,000/-
Loss of love and affection	-	Rs.1,00,000/-
Transport expenses	-	Rs. 10,000/-

Total	-	Rs.5,43,000/-

Challenging the quantum of compensation as excessive, the Insurance Company has filed this appeal.

3. The learned counsel appearing for the appellant submitted that the claimants are not dependant on the deceased as the father of the deceased is earning money for the family. He further submitted that adopting the multiplier of 17 is contrary to the law and therefore, the compensation towards loss of dependency at Rs. 4,08,000/- is excessive and it is to be interfered with. Further, the Tribunal has also awarded a sum of Rs.1,00,000/- towards loss of love and affection and Rs.10,000/- towards transport expenses and Rs.25,000/- towards funeral expenses which are also very excessive and the same has to be reduced.

4. A perusal of the award passed by the Tribunal reveals that the father of the deceased was examined as P.W.1, wherein, he deposed that the deceased was aged 21 years at the time of accident and he was working as a Driver and earned a sum of Rs.6,000/- p.m. He further deposed that the deceased alone was the breadwinner of the family and due to the accident, the family lost its breadwinner. Based on Ex.P1-Post-mortem report, the Tribunal fixed the age of the deceased at 21 years and as there was no proof for the income earned by the deceased, the Tribunal fixed the income of the deceased at Rs.3,000/- p.m. Considering the number of members in the family, the Tribunal, by deducting 1/3rd amount towards the personal expenses and adopting the multiplier of 17, quantified the loss of dependency at Rs.4,08,000/-.

5. It is to be noted that the deceased died at a very young age of 21 years. If he was alive, he would have earned and supported his family for a longer period. Therefore, the future prospective increase in income should have been considered by the Tribunal. However, the Tribunal has not considered that aspect while awarding compensation. In such circumstances, the compensation awarded under the head loss of dependency cannot be said to be excessive.

6. Insofar as compensation awarded under other heads, namely, transport expenses, funeral expenses and loss of love and affection are concerned, the parents of the deceased had lost their only son, that too at a very young age and therefore, the award of Rs.1,00,000/- under the head loss of love and affection cannot be said to be high. Similarly, the compensation awarded towards transport expenses and funeral expenses at Rs.10,000/- and Rs.25,000/- respectively is also reasonable. Therefore, this Court is of the considered view

that no case has been made out for interference with the order passed by the Tribunal and the appeal is liable to be dismissed.

7. Accordingly, the appeal is dismissed confirming the award dated 28.09.2004 made in M.A.C.T.O.P.No.1033 of 2003 on the file of the Motor Accident Claims Tribunal (Sub Judge), Krishnagiri.

8. The Insurance Company is directed to deposit the compensation awarded by the Tribunal, less the amount if any already deposited, along with interest at the rate of 9% p.a. from the date of petition till the date of deposit, to the credit of claim petition, within a period of four weeks from the date of receipt of a copy of this Judgment. The claimants are entitled to the compensation as per the apportionment made by the Tribunal. On such deposit being made, the Tribunal shall transfer the compensation amount directly to the bank account of the claimant through RTGS, within a period of two weeks thereafter.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To
The Motor Accident Claims Tribunal
(Sub Judge), Krishnagiri.

C.M.A.No.433 of 2017
and C.M.P.No.2959 of 2017

SS(CO)
SP(27/03/2018)