

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2017

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

C.M.A.No.734 of 2009
and MP.No.1 of 2009

United India Insurance Co. Ltd.,
Perambalur District. ...Appellant/2nd Respondent

Vs.

1.A.V.Balakrishnan
2.Prakash
3.Rajesh
4.Yokesh

...Respondents 1 to 4/
Claimants 1 to 4

5.R.Balasupramanian ...5th Respondent/1st Respondent
(R5 ex parte before Tribunal)

Prayer : Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act 1988 against the judgment and decree in MCOP.No.554 of 2005 dated 20.09.2007 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court, Ariyalur.

For Appellant : Mr.N.Vijayaraghavan
For Respondents : No appearance

JUDGMENT

The insurance company which is arrayed as the second respondent in MCOP.No.554 of 2005 on the file of the Motor Accident Claims Tribunal, Ariyalur has come forward with this appeal challenging the quantum.

2. The brief facts that led to the filing of this appeal are that on 17.4.2003, while the first claimant with his family comprising of his wife, mother and three children and also with others were returning from Tiruvannamalai in a Scorpio van bearing registration No. TN46 L 6666 that belongs to the fifth respondent herein (1st respondent before the Tribunal) to their native place at Udayarpalayam, on the way the driver of the van lost his control and hit the vehicle against the tree on the road side. In the said accident, the wife of the first claimant died and others injured. Seeking compensation for the death of the victim, the petitioners filed a petition in MCOP.No.554 of 2004 before MACT with a claim of Rs.20,00,000/- against which the Tribunal awarded Rs.10,92,000/- payable with 7.5% interest

per annum. Challenging the quantum of award, the insurance company is before this Court. The various heads in which the Tribunal has passed an award is as below :

Heads	Amount Awarded (Rs.)
Loss of dependency	10,80,000/-
Loss of love and affection	5,000/-
Funeral Expenses	2,000/-
Conveyance	5,000/-
Total :	10,92,000/-

3. The deceased was stated to be doing transport business with lorry and her monthly income was notionally fixed by the Tribunal at Rs.9,000/- and that she was doing transport business was evidenced by Ext.A-15, the R.C. book of the lorry that stands in the name of the victim of the accident. The appellant/insurance company essentially attacks the monthly income as fixed by the Tribunal.

4. The accident had happened in the year 2003 and it is not difficult to believe that someone who was running a transport business would not have earned Rs.9,000/- per month. Therefore, I find no error in the approach of the Tribunal in fixing the monthly income of the victim .

5. In the result, I find the award of the Tribunal is in order and accordingly the appeal is dismissed but without costs. The appellant/insurance company is directed to deposit the award amount less if any already deposited, within four weeks from the date of receipt of copy of this order, whereupon the claimants are entitled to withdraw the same forthwith. Consequently, connected miscellaneous petition is closed.

-s/d-
सत्यमेव जयते

Assistant Registrar(CSV)

True Copy

Sub-Assistant Registrar

ds
To:

The Motor Accident Claims Tribunal
Additional District Court,
Fast Track Court, Ariyalur.

C.M.A.No.734 of 2009

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