

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.812 of 2009

ICICI Lombard General Insurance Co. Ltd.,
No.140, Chhottabai Centre,
Nungambakkam High Road,
Chennai - 600 034.

...Appellant/R2

Vs.

1.Vasanthi

2.Minor Jayasundar

3.Jayammal

(Minor rep Mother &
Guardian Ist Respondent herein)

...RR1 to 3/Petitioner

4.Senthil Kumar

...R4/R1

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 26.08.2008 made in MCOP.No.343 of 2006 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Sankari.

For Appellant :Ms.R.Sreevidhya

For Respondents :Mr.C.Kulanthaivel [R1]

JUDGMENT

The Insurance Company that was arrayed as the second respondent in MCOP.No.343 of 2006 on the file of MACT (Sub Court), Sangakiri has preferred this appeal.

2. On 03.5.2006, at about 8.30 p.m. one Krishnamoorthy was riding his motor cycle along Tiruchengode - Salem Main Road. He was 47 years and was working as Manager in M/s. Christy Industries, when fate struck him in the form of a lorry belonging to the fourth respondent herein, which fatally ran over him. He left behind him surviving his young widow, a minor son and his widowed mother as his dependents. They moved the Tribunal with a claim of Rs.30,00,000/-

3. The claim was contended solely by the appellant and the only allegation it has made was that the accident occurred solely due to the negligence of the victim.

4. The Tribunal dismissed the allegation in defence taken by the appellant and fixed negligence entirely on the driver of the offending lorry. In fine, the Tribunal passed an award for Rs.10,13,000/- payable with interest at 7.5% per annum. This is now in challenge.

5. The core contention of the learned counsel for the appellant before this Court is that the compensation amount awarded is excessive. In this regard, it would be relevant to mention that the Tribunal has carefully analysed Ext.P14 salary certificate of the victim as produced by the claimants and has made notional deductions to arrive at a realistic sum. This can be elaborated. Ext.P14 states that the victim of the accident was receiving Rs.16,000/- per month. There was no deduction seen made from this salary as per Ext.P.14. However, the Tribunal has compared this with two other salary certificates of two other staff of the same company, whose salary was far less than that of the victim, and yet deductions were seen made. This is further explained by the Tribunal, when it records that it was informed by the Tribunal that the victim's appointment was confirmed only the previous month and therefore, deductions from the salary would commence thereafter. Accordingly, it fixed a notional amount that might be deducted from his salary in future at Rs.5000 and arrived at net monthly salary of Rs.11,000/-. After deducting 1/3 towards his personal expenses, the Tribunal determined that the family would have derived a support of Rs.88,000/- annually. Applying a multiplier of 11, that corresponds to his age, it arrived at a total value of dependency at Rs.9,68,000/-. Toward loss of consortium it has paid Rs.20,000/- and for loss of love and affection, it paid a bare Rs.20,000/- and in all it arrived Rs.10,13,000/-

6. At no point, in the course of his argument, could the learned counsel for the appellant explained or demonstrated the specific head under which the award was irrationally fixed. On a careful perusal of the materials before this Court, this Court finds that there exists no material to interfere with the award.

7. In the result, the appeal is dismissed without costs. I therefore, confirm the award passed by the Tribunal and the appellant/Insurance Company is directed to deposit the award amount with all accrued interest, less any amount already deposited within a period of four weeks from the date of receipt of a copy of this order and on such deposit the claimants are permitted to withdraw their respective shares, as apportioned by the Tribunal.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ds
To

1.The Motor Accident Claims Tribunal
Subordinate Judge,
Sankari.

2.The Section Officer,
VR Section,
High Court, Madras.

+1 cc to Mr.C.Kulanthaivel Advocate sr 8708
+1 cc to Mrs.R.Sreevidhya Advocate sr 9246

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