

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2017

CORAM :
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

CMA.No.2334 of 2006
and M.P.No.1 of 2006

The United India Insurance Co. Ltd.,
Motor Third Party Cell Claims Office,
South India Co-operative Building,
III Floor, No.38, Anna Salai,
Chennai - 600 002. ...Appellant/2nd Respondent

Vs.

1.S.Bakyalakshmi
2.S.Sathishkumar
3.A.K.Sridhar
[R3 exparte before the Tribunal] ... Respondents/Petitioners/
1st Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 01.02.2006 made in MCOP.No.1982 of 2004 on the file of the Motor Accidents Claims Tribunal, Court of Small Causes, Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondents : R1 & R2 - No Appearance

JUDGMENT

The insurance company of the lorry bearing No.TSH 9262 that belonged to the third respondent herein has appealed challenging the quantum of compensation awarded by the Tribunal in MCOP.No.1982 of 2004 on the file of the Small Causes Court, Chennai.

2. On 19.12.2003, the above said lorry lost control and crushed a motorcyclist, a 20 year old, who was a trader in eggs as a wholesaler, and killed him on the spot. His mother and his elder brother have approached the Tribunal with a claim of Rs.9,00,000/-, but the Tribunal passed an award for Rs.3,75,500/- payable with interest at 7.5% per annum.

3. The Tribunal has reckoned the income of the deceased at Rs.3,000/- per month and capitalised it only for ten years and valued the loss of dependency at [Rs.3,000x1210] Rs.3,60,000/-. The remainder part of the award amount represents the compensation payable on non-pecuniary heads.

Tribunal without any basis, has fixed the notional income of the victim at Rs.3,000/- per month when there is hardly any evidence to support the nature of avocation he was stated to be engaged in or the income he actually received.

4. Notice of this appeal has been served on the respondents 1 and 2 as early as 2009. Since the owner of the offending vehicle remained ex parte before the Tribunal, this Court dispenses notice to him. The appeal itself is pending for more than eleven years, and the learned counsel for the appellant submitted that no appeal has been preferred by the claimants yet. Therefore, this Court opted to consider the merit of appellant's contention as to the sustainability of the appeal.

5. Heard the learned counsel for the appellant. The submission of the counsel on the face of it does not impress the Court, for that the Tribunal has only capitalised the loss of dependency without resorting to multiplier applicable corresponding to the age of the victim.

6. There is no merit in the appeal and the same is dismissed. The award of the Tribunal is confirmed and the insurance company/appellant is directed to deposit the award amount along with accrued interest, less any amount already deposited, within six weeks from the date of receipt of a copy of this order, whereupon the first claimant, the mother of the deceased, is entitled to withdraw the same forthwith. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS V)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

To

1.The Judge

Motor Accidents Claims Tribunal
Court of Small Causes, Chennai.

2.The Section Officer,

VR Section, High Court, Madras. (2 copies)

+1cc to Mr.S.Arunkumar, Advocate Sr.No.59586

CMA.No.2334 of 2006

NMI (CO)

sm:5.2.2018