

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2017

C O R A M

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.774 of 2008

The Branch Manager,
The Oriental Insurance Co. Ltd,
80, Suba Govindam Buildings,
Imperial Road,
Cuddalore

... 2nd Respondent/Appellant

Vs.

1. B.Uma
2. B.karthikeyan
3. B.Lakshmipriya
4. Administrator,
Kallakurichi II, Coop. Sugar Mills,
Kancharapallaiyam
5. The Managing Director,
Tamilnadu State Transport Corn.Ltd.
Division-I, Salamedu,
Vazhudhareddy Post,
Villupuram.

... Respondents

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Decree Judgement passed by the Motor Accident Claims Tribunal, Cuddalore (Principal District Judge, Cuddalore) in MCOP No.823/2005 dated 07.07.2006.

For Petitioner : Mr.M.Rajasekhar

For Respondents 1 to 3 : Mrs.M.Shakkira Banu

For Respondent 4 : Mr.R.Balasubramanian

For Respondent 5 : Mr.S.V.Vasantha kumar

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the second respondent / Branch Manger, Oriental Insurance Company against the Judgement and decree passed in MCOP No.823 of 2005 dated 07.07.2006.

2. The brief facts of the claim application are that on 03.03.2005 at about 5.20 p.m, the diseased N.S.Balasubramaniyan was travelling in a Jeep bearing registration No.TN-32/W-9675 belonging to first respondent insured with second respondent proceeded from Ulundurpet to Kallkurichi and at the same time, a bus bearing registration No.TN.32-N-0820 belonging to the third respondent came in a rash and negligent manner driven by its driver and dashed against the Jeep and caused fatal injuries to the diseased, who died on the spot. The dependants of the diseased have claimed a sum of Rs.10,00,000/- as compensation.

3. The Tribunal after assessing the evidence and documents placed before it, awarded a sum of Rs.4,71,630/- as total compensation.

4. As against total award of compensation awarded by the Tribunal, the appellant insurance company herein has filed this appeal on the ground that the Tribunal has not considered the evidence of eyewitness and also FIR while calculating the loss of the income of diseased. The Tribunal has also not considered the fact that there was no document to prove the age of the deceased and also his income and erroneously held that after his retirement the deceased would have earned Rs.5,000/- per month.

5. In the grounds of appeal, the appellant herein, has stated that amount awarded fro the heads of loss of income, loss of consortium, loss of love and affection towards funeral expenses and loss of estate is excessive.

6. On the basis of the evidence placed before the Tribunal by P.W.2, and also Ex.P7, which is the pay certificate of the deceased for the month of February 2005, the Tribunal has assessed the loss of income by taking a income of Rs.5000/- per month and considering the age of the diseased as 57 years, the loss has been calculated at Rs.6,70,692/- and after deducting 1/3 towards, his personal expenses, at Rs.2,23,564/- the total loss of income was fixed at Rs.4,47,128/-. Considering the age of the diseased and also the claimants who are dependants of the diseased viz., wife who is aged about 47 years and son aged about 25 years and the daughter aged about 22 years, the amount awarded, under the heads loss of consortium, loss of love and affection, loss of funeral expenses and loss of estate are quite proper and reasonable one, which require no interference of this Court.

7. On the whole, the amount awarded towards, loss of income as well as the amount awarded under various heads are quite proper and reasonable one and hence the award of the Tribunal does not require any interference by this Court and accordingly, the award of the Tribunal is confirmed and the appeal is dismissed. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vum

To

1. The Presiding Officer,
Motor Accidents Claims Tribunal/Cuddalore,
(Principal District Judge, Cuddalore).

+1cc to Mr.R.Balasubramaniyan, Advocate in sr.no.90886

+1cc to Mr.R.Sreedhar, Advocate in sr.no.90140

+1cc to Mr.M.Raja Sekhar, Advocate in sr.no.90121.

C.M.A.No.774 of 2008

RK(CO)
CS/25/05/18



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