

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
C.M.A.No.2240 of 2017
and
C.M.P. No.11912 of 2017

The New India Assurance Company Ltd.,
Gongu Complex, Bye-Pass Road,
Ellis Nagar Post,
Dharapuram Taluk,
Erode District.

... Appellant/Respondent

Versus

1. K.Palaniammal
2. K.Sadaiappan
3. P.Subramani ... 1 to 3 Respondents/Petitioners
4. N.Thangavel
5. S.Karupusamy ... 4 & 5 Respondents/
The Respondents 4 and 5 Respondents 1 & 2
were set exparte before the
Trail Court court in O.P. Hence
notice to them may be dispensed with.

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree of the learned Motor accidents Claims Tribunal (Addl. District and Sessions Judge - Fast Track Court No.3), Dharapuram, Erode District, made in MCOP No.447 of 2005, dated 20.04.2006.

For Appellant : Ms.S.Jaya Sankar

JUDGMENT

The deceased, K.Ramasamy, aged 60 years, a coolie, earning a sum of Rs.4,000/- p.m., died in an accident that took place on 02.01.2002. The brothers and sister of the deceased have filed the claim petition claiming a compensation of Rs.4,00,000/=.

2. The Tribunal, considering the oral and documentary evidence, awarded a sum of Rs.1,56,000/- as compensation. Challenging the quantum of compensation as excessive and disproportionate, the Insurance Company has filed this appeal.

3. The main contention of the learned counsel for the appellant is that the first claimant being the married sister of the deceased and the second and third claimants being the brother and brother's son of the deceased are not entitled to compensation and the Tribunal is not correct in awarding compensation to claimants 1 to 3.

4. The Tribunal has awarded different amount as compensation under the following heads :-

Loss of Income	-	Rs.1,20,000/-
Funeral Expenses	-	Rs. 6,000/-
Love & Affection	-	Rs. 15,000/-
Pain & Suffering	-	Rs. 15,000/-

Total		Rs.1,56,000/-

5. Based on the post mortem certificate, the age of the deceased was fixed as 60. While fixing the monthly income of the deceased at Rs.3,000/- and deducting Rs.1,000/- towards personal expenses, and adopting a multiplier of 5 the loss of dependency has been quantified at Rs.1,20,000/- (Rs.2000 x 12 x 5).

6. Though it is the contention of the appellant that in the absence of legal heir certificate, the Tribunal ought not to have passed the award, the said contention deserves to be rejected. It is not a mandate for the claimants to produce the legal heir certificate. Without there being any contra evidence doubting the legal status of the claimants, mere assertion on the part of the appellant doubting the legal status of the claimants would not hold water. It is not necessary that the legal heir certificate should be filed to show the relationship between the parties for their entitlement. Unless contra evidence doubting the legal status of the claimants is brought on record, it is not necessary for the claimants to file any legal heir certificate. Therefore, the trial court was justified in rejecting the contention and this Court finds no reason to differ with the said finding.

7. On an overall analysis of the entire materials available on record and also taking into consideration the compensation awarded under various heads, this Court is of the considered view that the compensation awarded under various heads cannot be termed to be excessive or unreasonable. No grounds have been made out warranting interference with the well considered finding of the Tribunal.

8. Finding no merit, this appeal is dismissed. Consequently, connected miscellaneous petition is also

dismissed. However, there shall be no order as to costs.

9. The appellant /Insurance Company is directed to deposit the entire award amount along with accrued interest and costs as ordered by the Tribunal, less the amount, if any, already deposited, to the credit of MCOP No.447 of 2005 on the file of the Motor Accident Claims Tribunal, Dharapuram, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimants, through RTGS, as per the apportionment made by the Tribunal, within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi2/GLN

To

1. Motor accidents Claims Tribunal
(Addl. District and Sessions Judge
- Fast Track Court No.3),
Dharampuram, Erode District,
2. The Section Officer,
V.R. Section,
High Court, Madras - 104.

C.M.A.No.2240 of 2017
and

C.M.P. No.11912 of 2017

SVI(CO)
CS/13/03/18