

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2017

CORAM:

THE HON'BLE DR. JUSTICE **S.VIMALA**

Civil Miscellaneous Appeal No.758 of 2017
[(SR) No.71347 of 2003]
& CMP No.4106 of 2017

The Oriental Insurance Company Limited,
Rep. By its Branch Manager,
R.V.K.Buildings, Udumalpet ... Appellant

..Vs..

1. Narayanasamy
2. N.Subbulakshmi
3. T.Jayakumar
4. Ramasamy ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 10.03.2003 made in MCOP No.23 of 2001 on the file of the Motor Accident Claims Tribunal (Sub Court), Udumalpet.

For Appellant : Mr. S.J.Jayadev
For Respondents : No Appearance

- - -

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company, challenging the quantum of compensation.

2. The deceased, Arivalakan @ Bahavathi Raja suffered accidental death on account of the running over of the lorry on the head of the deceased. The deceased had been doing business in purchase and sale of iron and he was earning a sum of Rs.7,500/- per month. In respect of his death, the parents have claimed a sum of Rs.10 lakhs.

3. The age of the deceased has been taken as 32, based upon the postmortem certificate, Ex.P-3. Even though there were documents to show that the deceased was a dealer in old iron goods, still the monthly income has been taken only at Rs.80/- per day, i.e., Rs.2,400/- per month. Deducting Rs.800/- towards the personal expenses, assessing the dependency at Rs.1,600/- and adopting the multiplier of 17, the loss of dependency has been assessed at Rs.3,58,000/-. An Award of Rs.2,000/- for cremation expenses, an award of sum of Rs.20,000/- towards loss of love and affection to each of the claimants and an award of Rs.10,000/- for shock, mental agony, loss of happiness and loss of expectation of life.

4. Whether the award passed by the Claims Tribunal is justifiable, is the issue raised in this Appeal.

5. As against the claim made for a sum of Rs.10,00,000/-, the award has been passed for a sum of Rs.3,58,000/-. The accident has taken place during the year 2001. Even though the deceased had been a bachelor at the time of death, it is alleged that sisters were living along with him. But the sisters are not the claimants before the Claims Tribunal. In the absence of the averments showing that there were more dependents on the earnings of the deceased, the Tribunal should have deducted 50% towards personal expenses of the deceased. But has chosen to deduct 1/3rd towards the personal expenses. But, this would remain adjusted in the future prospective increase in income that should have been considered while quantifying the monthly dependency. Hence, the award passed by the Tribunal cannot be said to be excessive and it did not require any interference by this Court.

6. Therefore, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is also dismissed.

27.02.2017

Index : Yes / No
Web : Yes / No
srk

Dr. S.VIMALA, J.,

srk

To

1. Motor Accident Claims Tribunal (Sub Court), Udumalpet.
2. The Section Officer, V.R.Section, High Court, Madras

C.M.A.No.758 of 2017
[(SR) No.71347 of 2003]
& CMP No.4106 of 2017

27.02.2017

<http://www.judis.nic.in>