

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM

THE HON'BLE MR. JUSTICE S.MANIKUMAR
and
THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A. No.678 of 2017
C.M.P.No.3806 of 2017

M/s.Reliance General Insurance Co. Ltd.,
Salem.

.. Appellant

vs

1. Geetha
2. Praveen Kumar (Minor)
(Minor is represented by
his mother, 1st respondent)
3. Kandasamy
4. Periammal

.. Respondents

Appeal against the fair and decretal order dated 22.08.2014
passed in M.C.O.P.No.665 of 2010, on the file of the Motor Accidents
Claims Tribunal, Special District Court, Salem.

For Appellant .. Mr.N.Vijayaraghavan

JUDGMENT

(Judgment of the Court was delivered by **S.MANIKUMAR, J.**)

Challenge in this appeal filed by M/s.Reliance General Insurance Co. Ltd., Chennai, is to the quantum of compensation of Rs.14,42,700/-, with interest, at the rate of 7.5% per annum and costs, from the date of claim, till the date of deposit, awarded to the legal representatives of the deceased. According to the claimants, at the time of accident, the deceased, aged 24 years, stated to be a Mechanic in Albert Engineering Works, Karumapuram and earned Rs.10,000/- per month.

2. Material on record discloses that on 19.12.2009, when the deceased was riding a motorcycle, bearing Registration No.TN 27 V 2242, on Salem-Attur National Highways, from West to East, a Tanker Lorry, bearing Registration No.KA 21 A 2110, insured with the appellant-Insurance Company, driven in a rash and negligent manner, by its driver, dashed against the motorcycle. He sustained injuries and died on the spot. In this regard, a case in Cr.No.940 of 2009, has been

registered, against the driver of the tanker lorry, for the offences, under Sections 279 and 304(A) IPC., on the file of Karipatty Police Station.

3. Before the Claims Tribunal, wife of the deceased, examined herself as PW.1 and PW.2 is stated to be an eye-witness. PW.3 is the owner of Albert Engineering Works, Karumapuram. Documents, Ex.P1 - FIR, Ex.P2 - Post-mortem Certificate, Ex.P3 - Death Certificate, Ex.P4 - Legal Heir Certificate and Ex.P5 - Salary Certificate, have been marked on the side of the respondent/claimant. There is no oral or documentary evidence, on the side of appellant-Insurance Company.

4. Evaluating the same, the Claims Tribunal fixed negligence on the driver of the lorry, insured with the appellant-Insurance Company and quantified the compensation as Rs.14,42,700/-, with interest, at the rate of 7.5% per annum, from the date of claim, till payment.

Heard the learned counsel for the appellant-Insurance Company and perused the materials available on record.

5. As regards quantum of compensation, PW.1, wife of the deceased, has deposed that at the time of accident, the deceased, aged about 24 years, a Mechanic, working in Albert Engineering Works, Karumapuram. She has marked Ex.P5 - Salary Certificate. In support of the same, she has also examined one Kanniah, owner of Albert Engineering Works, Karumapuram, as PW.3, who deposed that the deceased was working under him, from 2006 onwards. Though the person, who had issued Ex.P5 - Salary Certificate, has not been examined, in the absence of any contra evidence, considering the number of dependants, the Claims Tribunal determined the monthly income of the deceased at Rs.6,000/- per month, which does not warrant interference.

6. Addition of 50% of the income, towards future prospects, has been made, taking note of the age of the deceased. Applying '18' multiplier and after deducting 1/4th towards the personal and living

expenses of the deceased, the Claims Tribunal has arrived the loss of contribution to the family as Rs.14,58,000/- (Rs.6,000/- x 50% addition x 12 x 18 x 1/4). As the deceased was aged 25 years and dependants are four in numbers, application of '18' multiplier and deduction of 1/4th towards the personal and living expenses respectively, in terms of the decision of the Apex Court in **Sarla Verma v. Delhi Transport Corporation** reported in **2009 (5) LW 561**, cannot be found fault with.

7. Accident has occurred on 19.12.2009. Though the quantum of compensation is contended to be on the higher side, having regard to the avocation pleaded, Rs.9,000/- taken as income, for computing the loss of contribution to the family, cannot be said to be erroneous. Compensation awarded under other heads is also reasonable. Quantum of compensation of Rs.14,42,700/-, awarded to the legal representatives of the deceased, cannot be said to be on the higher side, warranting interference.

8. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant-Insurance Company is directed to deposit the award amount, with accrued interest and costs, to the credit of M.C.O.P.No.665 of 2010, on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem, within a period of four weeks from the date of receipt of a copy of this order. The share of the minor shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minor shall be paid to the guardian once in three months, till they attain majority. On such deposit being made, except the minor, the respondents/claimants are permitted to withdraw their respective share, by making necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.

(S.M.K., J.) (M.G.R., J.)
23.02.2017

Index: Yes/No

Internet: Yes/No

skm

To

The Motor Accidents Claims Tribunal
Special District Court, Salem.

S.MANIKUMAR, J.
AND
M.GOVINDARAJ, J.

skm

C.M.A.No.678 of 2017

23.02.2017

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