



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1420 of 2016

and

C.M.P. (MD) Nos.11861 of 2016 & 8792 of 2017

The New India Assurance Company Limited,
Rep.by its Branch Manager,
Dr.No.913, Catholic Centre,
Main Road, Kovilpatti

... Appellant/2nd Respondent
Vs.

1.Kanthasamy Pandian
2.Arumugam
3.Kudiyarasu

...1st and 2nd Respondent/Petitioners
... 3rd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the award and decree dated 15.06.2016 passed in MCOP.No.44/2011 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Thenkasi.

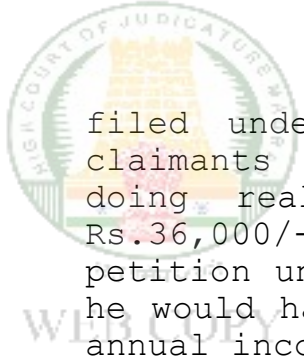
For Appellant : Mr.B.Vijay Karthikeyan
For Respondents : Mr.S.A.Ganapthy Raman
for R1 & R2
No appearance for R3

JUDGMENT

New India Assurance Company Limited has filed this Civil Miscellaneous Appeal challenging the award dated 15.06.2016 made in 44/2011 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Thenkasi.

2.The deceased Ponsanmugam was studying in law college. He was aged about 26 years and he was also doing real estate work. He was earning a sum of Rs.3,000/- per month. He met with an accident while riding his Hero Honda vehicle bearing Registration No.TN 69 R 0100. It was insured with the appellant. The sought payment of Rs.20,00,000/- towards compensation. The Tribunal awarded a sum of Rs.6,67,000/- with interest. Questioning the same, this Civil Miscellaneous Appeal has been filed by the Insurance Company.

3.The learned counsel for the appellant contended that the deceased was a tortfeasor himself. He invited the accident out of his own negligence. Therefore, the appellant cannot be made liable to pay compensation. It is seen that the claim petition has been



filed under Section 163(A) of Motor Vehicles Act, 1988. The claimants submitted that the deceased was earning Rs.3,000/- by doing real estate work. His annual income would come to Rs.36,000/-. Hence, the claimants are eligible to maintain a petition under Section 163(A) of the Act. Since he was a bachelor, he would have spend half of it on himself. Therefore, the loss of annual income fixed at Rs.18,000/-. Since the multiplier of 17 has to be adopted, the loss of income would come to 17x18,000/- = Rs.3,06,000/-. A sum of Rs.50,000/- can be awarded to the claimants towards loss of love and affection. A sum of Rs.25,000/- can be awarded for funeral expenses. In all, the compensation payable to the claimants would come to Rs.3,81,000/-.

4.The award amount of Rs.6,67,000/- passed by the Tribunal is reduced to Rs.3,81,000/-. The appellant insurance company is liable to pay the said amount to the claimants with interest at the rate of 7.5% per annum from the date of petition, till the date of realization. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
Additional Sub Court, Thenkasi.

2.The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.A.GANAPATHYRAMAN Advocate in SR. No. 82733

+1cc to Mr.B.VIJAY KARTHIKEYAN Advocate in SR. No. 82452

SKM

JS/SV.MMS/SAR.1/14.11.2017/2P-5C

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