



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.12.2017

Delivered on : 11.12.2017

WEB COPY

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. (MD) No. 186 of 2013

N.Nithiyanantham (Died)

1.N.Thangadurai

: Appellant / Petitioner

Vs.

1.Devadass

2.M/s. The New India Assurance Company Ltd.,

Trichy - 1.

: Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the Award dated 24.12.2008 made in M.C.O.P.No.15/2003 on the file of the Motor Accidents Claims Tribunal cum District Additional Fast Track Court, Trichirappalli.

For Appellant

: Mr.S.Krishnamoorthy

For Respondent No.1

: No appearance

For Respondent No.2

: Mr.J.S.Murali

JUDGMENT

Heard Mr.S.Krishnamoorthy, learned counsel for the appellant and Mr.J.S.Murali, learned counsel for the second respondent. There is no appearance on the side of the first respondent.

2.The appellant has preferred this Civil Miscellaneous Appeal against the award passed in M.C.O.P.No.15/2003 dated 24.12.2008, on the file of the Motor Accidents Claims Tribunal cum District Additional Fast Track Court, Trichirappalli.

3.The instant appeal is a claimant appeal seeking enhancement of the award amount fixed by the Tribunal. The award was fixed by the Tribunal under Section 140 of the Motor Vehicles Act, 1988, as a no fault liability. The Tribunal had fixed the liability only against the first respondent who was the owner of the vehicle and not against the Insurance Company, namely, the second respondent herein, as the insurance policy was not renewed and there was no insurance coverage on the date of the accident. Under the no fault liability, the Tribunal awarded a sum of Rs.10,000/- as compensation to the appellant which was payable by



the first respondent. The appellant's father who was the victim and the original claimant died in the year 2005 after the filing of the claim petition. The accident happened on 20.08.2001.

4. Aggrieved by the lesser compensation fixed by the Tribunal, the appellant has preferred the instant appeal. In his claim petition before the Tribunal, the appellant had claimed a sum of Rs.50,000/- towards loss of life of the deceased, a sum of Rs.25,000/- towards love and affection and a sum of Rs.20,000/- as a consortium. According to the learned counsel for the appellant, the sum awarded by the Tribunal is too meagre. According to him, there is a clear finding given by the Tribunal that the driver of the vehicle was clearly negligent in driving the vehicle. According to the learned counsel, despite filing sufficient documents to establish that the claimant's father had suffered grievous injuries on account of the accident and due to the sheer negligence on the part of the driver of the vehicle, the learned Tribunal fixed the quantum of compensation only at Rs.10,000/-. Eventhough, the appellant has filed the appeal questioning the exoneration of the Insurance Company, namely, the second respondent herein, the learned counsel for the appellant submits that he is not pressing that ground in this appeal and he restricts his claim only against the first respondent.

5. According to the learned counsel for the appellant, the accident took place on 20.08.2001 and due to the said accident, the appellants father suffered grievous injuries and it resulted in permanent disability. According to the learned counsel for the appellant, the appellant's father was taking continuous medical treatment from the date of the accident till the date of his death in the year 2005. According to the learned counsel for the appellant, the Tribunal also did not consider the death certificate of the deceased which was marked as Ex.P.6, which evidences the death of the appellant's father in the year 2005, ie., within four years from the date of the accident. At the time of the accident, according to the learned counsel for the appellant, the deceased was working as a physical education trainer in a school and was earning a sum of Rs.11,000/- per month.

6. According to the learned counsel for the appellant, despite letting in oral and documentary evidence to establish the claim, the Tribunal fixed the quantum of compensation only at Rs.10,000/-. This Court has perused all the materials on record including the findings of the learned Tribunal. This Court finds that despite the finding given by the Tribunal that only due to the negligence of the driver of the vehicle, the accident had happened, the Tribunal has fixed a reduced compensation at Rs.10,000/-. Under the no fault liability, eventhough the claimant is entitled to Rs.50,000/- as per Section 140 of the Motor Vehicles Act, in the event of the death of the victim.



7. The Tribunal has also not considered the fact that the appellant's father died within a period of four years from the date of the accident and the statement of the claimant's witness has not been disproved by the respondents. The Provisions contained under Section 140 of the Motor Vehicles Act is benevolent one and is intended to offer prompt financial relief to the victim of the legal representatives of the victim of the accident. In order that this object is not frustrated, the Tribunal or the Court is required to act promptly and spurn any attempt at procrastination. Such being the object, niceties of facts or of law are not required to engage the attention in detail. In such circumstance, this Court feels that a sum of Rs.50,000/- would be the adequate compensation that is to be awarded to the appellant instead of Rs.10,000/- awarded by the Tribunal.

8. In the result, the award dated 24.12.2008 passed by the learned Tribunal in M.C.O.P.No.15/2003 is modified to the extent that the first respondent is directed to pay a sum of Rs.50,000/-, instead of Rs.10,000/- together with interest at 7.5% per annum for Rs.50,000/- from the date of the claim statement till the date of payment. This Civil Miscellaneous Appeal is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal
cum District Additional Fast Track Court,
Trichirappalli.

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

+ 1 cc TO Mr.J.S.Murali , Advocate in SR No. 92330
+ 1 cc TO Mr.S.Krishnamoorthy , Advocate in SR No. 91907

MR

AE/RSK/SAR1/21.05.2018/3P/6C