

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 11.10.2018

CORAM

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

CMA.No.1433 of 2003

1.Singaram
2.Selvarasu
3.Chinnadurai
4.Manimozhi

.... Appellants/Petitioners

Versus

1.M.I.I.Karamullah

2.Oriental Insurance Co. Ltd.,
30/6E, First Floor,
Deen Plaza,
Mayiladuthurai

.... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Award dated 31.10.2002 made in M.C.O.P.No. 196 of 2001 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Perambalur.

For Appellants : M/s.Subash Associates

For Respondents: No Appearance

JUDGMENT

This Civil Miscellaneous Appeal is directed against the Award dated 31.10.2002 made in M.C.O.P.No. 196 of 2001 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Perambalur.

2. The facts of the case are as follows :-

On 28.04.1999 at about 12.15 a.m., the deceased Balakrishnan was proceeding in his cycle near Vellaru bridge at Agaram Seekur Barder. The car belonging to the first respondent which was driven in a rash and negligent manner, hit against the deceased. Due to which, he sustained severe injuries and after being admitted in the hospital and given treatment, he died. The claimants have claimed a sum of Rs.2,00,000/- as compensation. The first and second respondent did not appear before the Tribunal.

3. The Tribunal, after analyzing the evidence and documents placed before it and by taking into consideration the age, occupation and income of the deceased, awarded a sum of Rs.24,000/- towards compensation. Aggrieved against the said award, the claimants have preferred this appeal.

4. In the grounds of appeal, the appellants have stated that even under no fault liability in respect of the death of any person, the Tribunal ought to have awarded a sum of Rs.50,000/- and the sum determined by the Tribunal at Rs.24,000/- is against law. In the absence of the respondents filing any counter, the sum awarded by the Tribunal at Rs.24,000/- is not justified. Hence, on the whole, the grievances of the appellant is that the Tribunal has not considered the expenses made by the appellants for the deceased under various heads.

5. Though, the learned counsel for the appellants is present before this Court, he not ready to argue the case and hence the Court constrained to consider this case based on the materials available on records.

6. On a perusal of the records, it is observed that on the side of the appellants, no documents were filed and P.W.1 was examined. No witness was examined on the side of the respondent. It is observed from the claim application that the deceased was aged 70 years and his occupation has been stated as teacher and after retirement he was running a petty shop and his monthly income is stated to be Rs.7,000/-. The claimants are wife and children of the deceased Balakrishnan. It is also observed that the first respondent is the owner of the vehicle and the second respondent is the insurer of the car.

7. Based on the evidence and in the absence of documents, it is observed that the deceased met with an accident because of the rash and negligent driving on the part of the driver of the car which insured with the second respondent. In view of the fact that a Criminal Case has been registered against the driver, there is no doubt that the accident has been admitted and the liability has also been fixed. It is also observed that they have incurred medical expenses, transport expenses and funeral expenses. Further, it is also observed that after treatment, the deceased died after a week. While perusing the documents relating to the dependency of the claimants, it is seen that the 1st claimant is the wife of the deceased and the claimants 2 to 4 are the sons of the deceased. The deceased was aged about 70 years, at the time of accident, the Tribunal has awarded compensation to the wife of the deceased/1st claimant and since the other claimants 2 to 4 are aged about 37, 34 and 32 years old, the Tribunal has observed that they cannot be

dependency to the deceased, who is aged 70 years. Hence, this Court observed that the order of the Tribunal is proper and in the absence of any documents relating to occupation and income of the deceased, the sum awarded by the Tribunal at Rs.24,000/- is quite reasonable.

8. As the findings given by the Tribunal were based on the evidence and documents, this Court is of the view that the order of the Tribunal is just and proper, hence, no interference is called for in the order of the Court below. The order of the Tribunal passed in MCOP No.196 of 2001, dated 31.10.2002, is confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

lpp

To

1. The Principal District Judge,
The Motor Accident Claims Tribunal,
Perambalur.
2. The Section Officer,
V.R.Section,
High Court,
Madras. (2 Copies)

WEB COPY

CMA.No.1433 of 2003

kk[co]
srg 24/12/2018