

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.10.2018

CORAM

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

CMA.No.1793 of 2003

and

CMP.No.11288 of 2003

The Manager,

United India Insurance Company Ltd.,

Third Party Cell,

No.38, Anna Salai,

Chennai - 2.

.... Appellant/2nd Respondent

Versus

1. G.Panchapagesan (died) Respondents/1st Respondent

2. Chandiran

3. Bharathi Rajagopalan

4. P.Anantha Ramakrishnan

5. S.Radha

(Respondents 3 to 5 brought on record as LRs
of the deceased 1st respondent vide Court Order
dated 01.10.2018 made in CMP
Nos.10744 to 10746/2018
in CMA 1793/2003 (SRTJ))

.... Respondents/Petitioner

Prayer : Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act 1988, against the Award and Decree dated
20.12.2002 made in O.P.No.2758 of 1999 on the file of the Motor
Accident Claims Tribunal (Chief Judge, Court of Small Causes),
Chennai.

For Appellant : Mr.D.Bhaskaran

For Respondents: Mrs.S.Agalya for R1
for Mr.A.Shanmugaraj

JUDGMENT

This Civil Miscellaneous Appeal is directed against the
Award and Decree dated 20.12.2002 made in O.P.No.2758 of 1999 on
the file of the Motor Accident Claims Tribunal (Chief Judge,
Court of Small Causes), Chennai.

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

On 15.10.1996 at about 7.30 p.m., the deceased was travelling as a pillion rider in a motor cycle bearing registration No.TMJ 9770. At that time, in front of the military quarters, a bus belonging to the first respondent bearing registration No.TAF 5656 driven by its driver in a rash and negligent manner, came in the opposite direction and dashed against the deceased and caused the fatal accident. At the time of accident, the deceased was aged 53 years. The claimant, who is the father of the deceased, has filed the application, claiming a sum of Rs.10,00,000/- as compensation.

3. The appellant/Insurance Company has filed a counter statement and denied the averments made in the claim petition for claiming compensation to the claimants.

4. The Tribunal, after analyzing the evidence and documents produced by both the sides, has awarded a sum of Rs.4,48,020/- as compensation. Aggrieved against the same, the appellant/Insurance Company has preferred this appeal.

5. In the grounds of appeal, the appellant/Insurance Company has stated that it is the rider of the two wheeler, whose negligence caused the accident and hence he is also equally responsible. It is also stated that the sum awarded by the Tribunal at Rs.4,48,020/-as compensation is also on the higher side and without any basis. Among other grounds, it is argued that in the absence of any evidence, the Tribunal has awarded huge sum as compensation. The prime ground raised in the appeal is that claimant/father of the deceased is aged about 79 years, whose dependency on the deceased is not a proper one and hence the compensation awarded by the Tribunal is not justified.

6. Heard both sides and perused the documents available on records.

7. The main arguments advanced by the learned counsel for the appellant is that the deceased was aged 53 years and the claimant was aged 79 years, only the mother alone can be the dependent; whereas, the Tribunal has not considered that aspect. Apart from this, the other aspects with regard to the dependency, the application of multiplier and the income of the deceased were not taken by the Tribunal.

8. On a perusal of the Judgment, it is observed that the deceased was working as an Executive Engineer in a Corporation, Chennai and Ex.P7 was filed before the Tribunal, wherein the pay mentioned in the document is Rs.9,146/-. Further, he was entitled for the pay commission amount and hence the Tribunal

has taken the income at Rs.10,826/. It is also observed that the Tribunal has applied the multiplier and determined the annual loss of income. Taking into consideration the fact that during the pendency of the claim application, the claimant died and his legal heirs were brought on record, hence, considering the above facts, the compensation awarded by the Tribunal is reasonable and proper.

9. In view of the above facts and reasonings, this Court without any hesitation, confirms the award passed by the Tribunal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10. The appellant/Insurance Company is directed to deposit the entire award amount along with interest awarded by the Tribunal, after adjusting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the respective shares of respective claimants to their bank accounts through RTGS within one week thereon.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
(Chief Judge, Court of Small Causes),
Chennai.

2. The Section Officer,
V.R.Section,
High Court, Madras. (2 Copies)

+1cc to Mr.A.Shanmugaraj, Advocate sr.67694
+1cc to Mr.D.Bhaskaran, Advocate sr.67741

CMA.No.1793 of 2003
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sr[co]
srg 26/03/2019