

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 10.10.2018

CORAM

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

CMA.No.988 of 2003

1.M.Nachimuthu

2.United India Insurance Co. Ltd.,

Branch Office : P.S.Complex,

R.F.Road, Palani, Dindigul District

.... Appellants/Respondents 2 & 3

Versus

1.M.Natchi

2.Palanal

3.K.Nagamuthu

.... Respondents/Petitioners & 1<sup>st</sup> Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 29.09.2000 made in M.C.O.P.No.1059 of 1998 on the file of the Motor Accident Claims Tribunal (Sub Court), Dharapuram.

For Appellants : Mr.M.B.Gopalan

For Respondents: No Appearance

JUDGMENT

This Civil Miscellaneous Appeal is directed against the Judgment and Decree dated 29.09.2000 made in M.C.O.P.No.1059 of 1998 on the file of the Motor Accident Claims Tribunal (Sub Court), Dharapuram.

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

On 29.09.1998 at about 3.15 p.m, the deceased Subramani was standing along with his moped bearing Registration No. TCC 2691, from Vellakoil to Moolanoor main road, near Vanjiamman Temple. At that time, a bus belonging to the first respondent bearing registration No.TN 57 9495, driven by its driver in a rash and negligent manner, hit against the Subramani and caused severe injuries and he died on the spot. The dependents of the deceased Subramani claimed a sum of Rs.5,00,000/- as compensation.

3. The third respondent in his counter statement has denied

the negligence on the part of the driver of the bus and stated that the deceased, who has crossed the road in a negligence, caused the accident. The other heads of claiming compensation is also denied by the third respondent.

4. The Tribunal, after analyzing the evidence and documents, has fixed the liability on the first respondent for the said accident and awarded a sum of Rs.3,96,000/- under the following heads :-

| Heads                                          | Amount awarded by the Tribunal |
|------------------------------------------------|--------------------------------|
| For the annual loss of income<br>(Rs.24000*16) | 3,84,000.00                    |
| For Funeral Expenses                           | 2,000.00                       |
| For loss of love and affection                 | 10,000.00                      |
| Total Compensation                             | 3,96,000.00                    |

Aggrieved against the said award, the respondents have preferred this appeal.

5. In the grounds of appeal, the appellants have stated that the award passed by the Tribunal is contrary to law. The quantum of compensation awarded is excessive and the monthly income of the deceased, as taken by the Tribunal without any documentary evidence is on the higher side. The fastening of the liability on the Insurance Company is also not justified.

6. Heard the learned counsel for the appellant. There is no representation on behalf of the respondents.

7. The appellant/Insurance Company has argued that at the time of accident, the deceased was aged only 19 years and his income has been taken as Rs.3,000/- per month, which is highly excessive. There is no proof of occupation and income, which has been filed on the side of the claimants. Hence, in the absence of any proof of evidence with regard to occupation and income, the Tribunal has taken his income at Rs.3,000/- which is highly excessive. It is further argued that the loss of income assessed on the aforesaid basis is also not justified.

8. On a perusal of the records and the claim application, it is seen that the deceased was aged 20 years and it has been stated that he has running a work shop and earning Rs.3,000/- per month. Considering the age of the deceased and occupation stated in the claim application, the Tribunal has taken his income at Rs.3,000/- which is quite reasonable. Further, it is

also observed that only 1/3rd of the amount has been taken for his personal expenses. So, contribution to the family is calculated at Rs.2,000/-. By application of the multiplier the sum arrived at Rs.3,84,000/- is very much reasonable, since it is also observed that the deceased was the only son of the claimants. Apart from the said amount, a further sum awarded by the Tribunal for the loss of love and affection is only Rs.1,000/- Hence, the sum arrived at by the Tribunal towards loss of income is quite reasonable.

9. As the findings given by the Tribunal are based on the evidence and documents, the order of the Tribunal is just and proper. No interference is called for in the order of the Court below. Hence, the order of the Tribunal is confirmed.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed.

Sd/-  
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal (Subordinate Judge), Dharapuram.

2.The Section Officer,V.R.Section, High Court, Madras.

+1cc to Mr.M.B.Gopalan, Advocate SR.No.71362

C.M.A. No.988 of 2003

SAI (CO)

GMV (19/11/2018)

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