

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.12.2018
CORAM:
THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.2104 of 2006

United India Insurance Co.Ltd.
Divisional Office-5, II Floor,
J.Kabila Towers, Door No.266,
Mettupalayam Road, Saibaba Colony,
Combatores 43.

...Appellant/R3

..vs..

1.M.Raju	
2.R.Prasanna	
3.R.Praveennath	..R1 to R3/ Petitioners
4.C.N.Palanisamy	.. R4 /R1
5.K.Radhamani	..R5/R2

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 25.08.2005 made in M.C.O.P.No.786 of 2004 on the file of the Motor Accident Claims Tribunal, II Additional Subordinate Judge, Coimbatore.

For Appellant : Mr.S.Arun Kumar
For Respondents : Mr.S.Gunalan for R1 to R3.

R4&r5 :Not Ready Notice

JUDGMENT

The United Indian Insurance Company Ltd., has filed the present appeal questioning the quantum of compensation awarded by the Tribunal in M.C.O.P. No.786 of 2004.

2. The brief fact of the case of the respondents/claimants is briefly as follows:

On 01.09.2001, the deceased, Mrs.Prema, was travelling as a pillion rider in a two wheeler TVS 50 bearing Registration No. DDB 2278 along Pollachi Main Road. The two wheeler was ridden by her husband. When they were nearing Pokkankodu, a speeding lorry bearing Registration No.TN 37 K 0018, hit the two wheeler, as a result of which, the deceased fell down from the two wheeler and ran over by the lorry and died on spot. According to the claimants, the rash and negligent driving of the driver of the lorry bearing Registration No.TN 37 K 0018, belonging to the fifth respondent herein, was the cause of accident and that since the fifth respondent insured his vehicle with the

appellant / third respondent, namely, the United India Insurance Company Limited, Coimbatore, both of them are jointly and severally liable to pay compensation to him. The driver as well as the owner of the lorry did not appear before the Tribunal and therefore, both of them were set exparte. The appellant / third respondent, namely, the United India Insurance Company Limited, Coimbatore, contested the claim petition by filing a counter, in which, it is stated that the deceased was also responsible for the accident.

3. The learned II Additional Soubordinate Judge, after analysing the evidence on record, awarded a compensation of Rs.5,00,000/- together with interest at the rate of 7.5% per annum. Questioning the quantum of compensation, the present appeal is filed under Section 173 of the Motor Vehicles Act, 1988, by the Insurance Company.

4. Mr.S.Arun Kumar, learned counsel appearing for the appellant would contend that, when the appellant was a house wife, the Tribunal has fixed the annual income as Rs.36,000/-, which is an exorbitant amount. The award passed by the Tribunal under various heads is extracted hereunder.

Sl.No	Head	Amount (Rs.)
1.	Loss of dependency (Rs.36,000/- X 13)	4,68,000/-
2.	Loss of consortium	10,000/-
3.	Loss of love and affection	20,000/-
4.	Funeral expenses	2,000/-
	Total	5,00,000/-

Though the deceased is a housewife, her contribution for the maintenance of the family, cannot be simply brushed aside and therefore, fixing the annual income as Rs.36,000/- by the Tribunal, cannot be faulted with. Though the tribunal has committed an error in not deducting any amount towards the personal expenses, it is pertinent to point out that the Tribunal has not added any amount for future prospects. At this stage, it is relevant to note that the claimants did not file any appeal against the quantum of compensation passed by the Tribunal. The award passed by the Tribunal cannot said to be on the higher side. Therefore, in the facts and circumstances of the present case, I do not find any merits in the arguments advanced by the appellant/Insurance Company.

5 Mr.S.Gunalan, learned counsel appearing for the first respondent/claimant contended that the Tribunal has passed the award of Rs.5,00,000/- considering the various aspects and therefore, the award passed by the Tribunal need not be disturbed.

6. In the result, the Civil Miscellaneous Appeal is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS)
//True Copy//

Sub Assistant Registrar

bga
To

The II Additional Subordinate Judge,
Motor Accident Claims Tribunal ,
Coimbatore.

2. The section officer,
VR Section,High court,Madras

+1cc to Mr. K.Balaji, Advocate SR.No. 86953
+1cc to Mr.S.Arun Kumar , Advocate SR.No. 87024

C.M.A.No.2104 of 2006

A.SK(30/01/2019)