IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.09.2018

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THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

CMA.No.341 of 2005
and
CMP.No.1841 of 2005

The New India Assurance Co. Ltd.,
Annapoorna Building,
Ooty Main Road,
Mettupalayam Taluk,
Coimbatore District. .... Appellant

Versus

1.Mariswamy
2.Karuppuswamy
3.Rajathi

4.Minor Karthick
rep. by his guardian and
father Mariswamy

5.Messers Vaishnavi Mills Private Ltd.,
Sirumugai Karamadai Road,
Jadayampalayam, Mettupalaym Taluk.

6.T.Palaniswamy
7.Rajan
8.Kannammal
9.Chandra
10.Rani .... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 24.02.2004 made in MACTOP.No. 602 of 1999 on the file of the Motor Accident Claims Tribunal (First Additional District Judge), Coimbatore.

For Appellant	: No appearance
For R2 to R4 and R7 to R10	: Mr.S.Gunalan
For R5	: Exparte

JUDGMENT

This Civil Miscellaneous Appeal is directed against the Judgment and Decree dated 24.02.2004 made in MACTOP.No. 602 of 1999 on the file of the Motor Accident Claims Tribunal (First Additional District Judge), Coimbatore.

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

On 30.11.1998 at about 8.00 p.m., the deceased Rangarajan was proceeding in his Bullock Cart from South to North direction, at that time, a lorry bearing Registration No.TDC 7666 belonged to the first respondent, driven by its driver, in a rash and negligent manner, hit against Rangarajan's cart, he was thrown away from the cart and he died. At the time of accident, the deceased Rangarajan was aged 24 years, working as a Maistry and earning Rs.2,500/- per month. The legal heirs of the deceased have claimed a sum of Rs.3,00,000/- as compensation.

3. The appellant/Insurance Company, in the counter statement, has denied the age, occupation and income of the deceased and stated that the quantum of compensation claimed by the claimants is excessive.

4. The Tribunal, after analyzing the evidence and documents placed before it, has awarded a sum of Rs.2,51,000/- by taking into consideration, the income of the deceased at Rs.1,250/-, and calculated the loss of income for 16 years as Rs.2,40,000/-. Aggrieved against the said award, the appellant/ Insurance Company has preferred this appeal.

5. In the grounds of appeal, the appellant/Insurance Company has disputed the compensation awarded by the Tribunal by contending that the Tribunal ought to have taken into consideration, the age of the parents of the deceased for arriving such compensation. Further, the monthly income of the deceased fixed at Rs.2,250/- by the Tribunal is excessive and it ought to have fixed the notional income at Rs.15,000/-. The other contention raised by the appellant is that the Tribunal ought to have taken the multiplier of 5 by considering the age of the parents of the deceased who are more than 60 years and has to fix the monthly income at Rs.1,500/- are accordingly the loss of pecuniary benefit would be Rs.60,000/- after deducting the 1/3rd towards the personal expenses of the deceased. Hence,

the amount awarded under the head loss of pecuniary benefit at Rs.2,40,000/- is highly excessive.

6. No representation for the appellant. Heard the learned counsel appearing for the respondents 2 to 4 and 7 to 10 and perused the materials available on record.

7. The main contention raised by the appellant/Insurance Company is that the multiplier applied by the Tribunal by taking into consideration the age of the deceased is not proper and only the age of the parents has to be considered, since the deceased is a bachelor. Further, the income of the deceased fixed by the Tribunal is also on the higher side.

8. On a perusal of the records, it is seen that at the time of accident, the deceased was travelling in his Bullock Cart and he was aged about 20 years. Definitely his income will support his family hence, the income of the deceased fixed by the Tribunal at Rs.2,250/- is quite proper and by considering the personal expenses of Rs.1,000/-, the Tribunal has calculated the loss of income at Rs.1,250/-, which is not excessive. The multiplier applied for the age of the deceased is also proper. Hence, the sum awarded by the Tribunal is very much reasonable.

9. In view of the above, this Court is of the opinion that the findings given by the Tribunal were based on the evidence and documents and the order of the Tribunal is just and proper. No interference is called for in the order of the Court below. Accordingly, the order of the Tribunal is confirmed. This Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10. The appellant and the fifth respondent are directed to deposit the award amount as apportioned by the Tribunal, with interest and costs, before 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.

27.09.2018

Index : Yes/No
Internet : Yes/No
Speaking/Non speaking Judgment
lpp

S.RAMATHILAGAM,J.
Lpp

To

1. The Motor Accident Claims Tribunal
   (First Additional District Judge), Coimbatore.

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

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and
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