

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.10.2018

CORAM

THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

C.M.A.No. 629 of 2007
and
M.P.No.1 of 2014

The New India Assurance Co. Ltd.,
Ranipet.

... Appellant

Vs

1. Ponnammal

2. T.Jayavelu

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act of 1988 against the Judgment and Decree passed in M.C.O.P.No.732 of 2001 on 25.11.2005 on the file of the Learned Motor Accident Claims Tribunal (Additional District Judge) FTC-II Kancheepuram.

For Appellant : Mr.J.Chandran

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree passed in M.C.O.P.No.732 of 2001 on 25.11.2005 on the file of the Learned Motor Accident Claims Tribunal (Additional District Judge), Fast Track Court-II Kancheepuram.

2. The facts leading to the filing of the Claim Petition before the Tribunal is that on 17.03.2001, the deceased Ulaganathan was travelling in the Tractor cum Trailer bearing Registration No. TN 27 Y 4119, and TN 23 V 9424 respectively, which was driven by the second respondent from Muthur village to Kancheepuram. When it reaches Govindavadi Agaram village at about 10.00 p.m., due to rash and negligent driving by the driver of the Tractor/second respondent herein, the deceased Ulaganathan fell down from the Tractor. Resultantly, the said Ulaganathan sustained grievous and multiple injuries all over the body. Immediately, he was admitted in the Government Hospital, Kanchipuram and inspite of treatment, he died on

25.03.2001. Therefore, for the death of the deceased, his legal heirs have filed the Claim Petition seeking compensation of Rs.5,00,000/- by stating that due to the negligent driving on the part of the driver of the Tractor, second respondent, the accident had occurred. The vehicle driven by the second respondent was insured with the appellant insurance company and they are statutorily liable for the compensation.

3. The Tribunal after analysing the documents and evidence has awarded a sum of Rs.4,18,000/- as compensation as follows :-

Loss of income	:	Rs.4,08,000/-
(Rs.3,000 x 12 - 1/3		
= Rs.24,000/-)		
(Rs.24,000 x 17 =		
Funeral expenses	:	5,000/-
Pain and suffering	:	5,000/-

		Rs.4,18,000/-

3. Aggrieved over the same, the appellant / insurance company has filed this appeal.

4. The learned counsel for the appellant argued that the deceased himself has invited the accident by traveling in the Tractor as an unauthorised passenger by sitting on the paddy bags (at the top of the Tractor). Further it is argued that the income arrived by the Tribunal for a Coolie person as Rs.3,000/-p.m., is excessive, in the absence of proof of occupation and income.

5. On a perusal of documents, it is evident from the deposition of PW2, the mother of the deceased had stated that her son was travelling in the Tractor as Coolie worker/load man. Due to careless and negligent driving by the driver of the Tractor, her son fell down from the Tractor and sustained grievous injuries. Ex.P1, FIR also prove the fact, that the deceased was travelling in the said vehicle as load man. Hence, it is clear that based on the evidence, the Tribunal has found that due to careless driving of the Tractor by the second respondent, the said accident occurred. Hence the finding on the above aspect by the Tribunal is proper.

6. Further this Court feels that the 1st respondent has lost her son at the age of 23 years and during the pendency of the petition before the Tribunal, she lost her husband also. Taking note of the above facts, the sum arrived at towards loss of income by applying the proper multiplier is quite reasonable. Considering the year of the accident, this Court feels that the

sum awarded under the head 'funeral expenses' and pain and sufferings is also found proper. Hence, this Court is of the view that the award passed by the Tribunal is quite reasonable and does not require any interference. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

7. The appellant /Insurance Company is directed to deposit the entire award amount along with accrued interest and costs as ordered by the Tribunal, less the amount, if any, already deposited, to the credit of MCOP No.732 of 2001 on the file of the Motor Accident Claims Tribunal, Kancheepuram, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant, through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Motor Accidents Claims Tribunal,
(Additional District Judge) FTC-II,
Kancheepuram.
2. The Section Officer,
Vernacular Section,
Madras High Court.

सत्यमेव जयते

C.M.A.No. 629 of 2007

GP (CO)
SSM(04/06/2019)

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