

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CMA.Nos.1941 to 1943 of 2015

Govindan .. Appellant in
C.M.A.No.1941/2015/Petitioner
T.Lakshmi .. Appellant in
C.M.A.No.1942/2015/Petitioner
1.Pandurangan
2.Jayalakshmi .. Appellants in C.M.A.No.1943/2015/Petitioner

Vs.

1.K.Prabu
2.The Divisional Manager,
Oriental Insurance Company Ltd.,
Pondicherry. .. Respondents in all
C.M.As.

Common Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988 against the award dated 30.04.2003 made in M.C.O.P.Nos.250, 256 and 263 of 2003 respectively on the file of the III Additional District Judge, (Motor Accidents Claims Tribunal), Pondicherry.

For Appellants : Mr.S.Parthasarathy (in all C.M.As.)

For R2 : Mr.J.Chandran (in all C.M.As.)

For R1 :Door Closed

C O M M O N J U D G M E N T

These Civil Miscellaneous Appeals have been filed for enhancement of the compensation awarded by the Tribunal in the award dated 30.04.2003 made in M.A.C.O.P.Nos.250, 256 and 263 of 2003 on the file of the III Additional District Judge, (Motor Accidents Claims Tribunal), Pondicherry.

2.Since all the appeals are arising out of the same accident, they are disposed of by this common judgment.

3.The appellants are the claimants in M.C.O.P.Nos.250, 256 and 263 of 2003 on the file of the III Additional District Judge, (Motor Accidents Claims Tribunal), Pondicherry. The claimants in M.A.C.O.P.Nos.250 and 256 of 2003 filed the said claim petitions, claiming compensation of a sum of Rs.2,00,000/- and Rs.1,00,000/- respectively for the injuries sustained by them and the claimants in M.A.C.T.O.P.No.263 of 2003 filed the said claim petition, claiming compensation of a sum of Rs.2,00,000/- for the death of their son, viz., Gnanasekar @ Sekar in the accident that took place on 02.05.1997.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the Act of God and directed the 1st respondent- owner of the bus and the 2nd respondent-Insurance Company to pay compensation of Rs.25,000/-, Rs.10,000/- and Rs.75,000/- respectively, jointly and severally to the claimants.

5.Not being satisfied with the compensation awarded by the Tribunal, the appellants/claimants have come out with the present appeals.

6.The learned counsel appearing for the appellants contended that the Tribunal erred in holding that the accident occurred due to the Act of God. The appellants have let in evidence to prove that the driver of the bus belonging to the 1st respondent in order to give way to upcoming vehicle has steered the bus to left side and due to loose soil, the bus slid and caused accident. The accident occurred only due to the negligent act of the driver. The learned counsel further contended that M.C.O.P.No.1943 of 2003 was filed, claiming compensation for the death of Gnanasekar @ Sekar, who was self-employed and was earning Rs.5,000/- per month. The Tribunal without appreciating the evidence let in by the appellants, has erroneously fixed a sum of Rs.15,000/- per year as notional income. The Tribunal ought to have accepted the evidence of appellants with regard to income of the deceased and awarded a just compensation. The learned counsel further contended that in respect of the claimants in M.A.C.T.O.P.Nos.256 and 263 of 2003, the Tribunal has awarded meager sums as compensation and prayed for enhancement of the same.

7.Mr.J.Chandran, learned counsel appearing for the 2nd respondent-Insurance Company contended that from the evidence, it is seen that due to heavy rain, bus slid and the accident has occurred. The appellants have not stated that accident occurred due to the act of the driver of the bus. Apart from injured who are interested persons, the appellants have not examined any independent witnesses. The appellants in C.M.A.No.1943 of 2015 did not produce any evidence to show that the deceased was self-employed and was earning a sum of Rs.5,000/- per month. The amounts awarded by the Tribunal in all the three claim petitions are not meager and appellants are not entitled for any enhancement of compensation and prayed for dismissal of all the appeals.

8.Heard the learned counsel for the appellants as well as the second respondent-Insurance Company and perused all the materials available on record.

9.According to the appellants in C.M.A.No.1943 of 2015, the deceased was self-employed and was earning a sum of Rs.5,000/- per month, but they did not produce any materials to substantiate their claim. The accident has occurred on 02.05.1997. The Tribunal, on the failure on the part of the appellants to produce documents to substantiate the claim, has fixed Rs.15,000/- per year as notional income of the deceased. The said amount is not meager during the year 1997. Hence, I do not find any reason to enhance the compensation awarded by the Tribunal in respect of C.M.A.No.1943 of 2015, filed against M.C.O.P.No.263 of 2003.

10.As far as C.M.A.Nos.1941 and 1942 of 2015 filed against M.C.O.P.Nos.250 and 256 of 20013, claiming compensation for the injuries suffered by the claimants are concerned, from the materials on record, it is seen that all the injuries are simple injuries. The Tribunal considering the facts and injuries sustained by the appellants, has awarded compensation, which are not meager. Hence, there is no reason to interfere with the compensation awarded by the Tribunal.

11.In the result, all the appeals are dismissed as devoid of merits. The respondents 1 and 2 are directed to deposit the compensation of sums of Rs.25,000/-, Rs.10,000/- and Rs.75,000/- along with accrued interest and costs, jointly and severally, to

the credit of M.C.O.P.Nos.250, 256 and 263 of 2003 respectively, on the file of the III Additional District Judge, (Motor Accidents Claims Tribunal), Pondicherry, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the claimants/appellants are permitted to withdraw the entire award amount respectively, as per the apportionment fixed by the Tribunal, with accrued interest and costs, adjusting the amount, if any withdrawn already, by making necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gsa
To

The III Additional District Judge,
(Motor Accidents Claims Tribunal), Pondicherry.

Copy to

The Section Officer,
VR Section, High Court, Madras.

CMA.Nos.1941 to 1943 of 2015

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