

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CMA.No.2322 of 2015

M/s.The New India Assurance Co. Ltd.,
136, MBT Road, Navalpur, Ranipet, Vellore District.

.. Appellant/R2

Vs.

Kannammal (died)

1.Govindammal

2.Sakuntala

3.Dhakshinamoorthy

4.Ramalingam

5.Thulasi

6.S.Kavitha

.. Respondents 1 to 6/P2 to P6 & R1

(R6 has been set ex-parte. Hence,
notice is dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 22.04.2015 made in M.C.O.P.No.250 of 2012 on the file of the Additional District Judge, (Motor Accidents Claims Tribunal), Ranipet.

For Appellant : Mr.G.Udaya Sankar

For R1 to R5 : Ms.M.R.Sakundala
for M/s.T.P.Prabhakaran

For R6 : Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award and decree dated 22.04.2015 made in M.C.O.P.No.250 of 2012 on the file of the Additional District Judge, (Motor Accidents Claims Tribunal), Ranipet.

2.The appellant-Insurance Company is the 2nd respondent in M.C.O.P.No.250 of 2012 on the file of the Additional District Judge, (Motor Accidents Claims Tribunal), Ranipet. One Kannammal (deceased) and the respondents 1 to 5 filed the above claim

petition claiming a sum of Rs.3,00,000/- as compensation for the death of one Kuppan, son of Kannammal and brother of the respondents 1 to 5, who died in an accident that took place on 14.09.2011.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the vehicle belonging to the 6th respondent herein and awarded a sum of Rs.2,84,200/- as compensation, directing the 6th respondent and the appellant to pay the same jointly and severally to the respondents 1 to 5.

4.Aggrrieved by the quantum of compensation awarded by the Tribunal, the 2nd respondent-Insurance Company has come out with the present appeal.

5.The learned counsel appearing for the appellant contended that the Tribunal erred in fixing the notional income of the deceased at Rs.4,000/- per month, without there being any documentary proof. The deceased was a bachelor and the Tribunal ought to have deducted 50% towards personal expenses, instead of 1/3rd. The amounts awarded by the Tribunal under other heads are also excessive. The respondents 1 to 5 are not entitled to claim compensation for the loss of love and affection.

6.Per contra, the learned counsel for the respondents 1 to 5 contended that the deceased was a coolie, earning Rs.5,000/- per month. The Tribunal erred in fixing only Rs.4,000/- per month as notional income and amounts awarded by the Tribunal under different heads are not excessive and prayed for dismissal of the appeal.

7.Heard the learned counsel for the appellant as well as the respondents 1 to 5 and perused the materials available on record.

8.From the materials available on record, it is seen that the respondents 1 to 5 have stated that the deceased was a coolie earning Rs.5,000/- per month. The appellant has not let in any evidence to disprove the contention of the respondents 1 to 5 that the deceased was earning Rs.5,000/- per month. In the absence of any evidence with regard to income, the Tribunal fixed Rs.4,000/- per month as notional income of the deceased and the same is reasonable. The appellant's contention that the deceased was mentally ill and was not taken care by the respondents 1 to 5 and hence, they are not entitled to any compensation, is not supported by any acceptable evidence. The appellant failed to prove that the deceased was mentally ill person. The contention of the appellant that the deceased was a bachelor and 50% of notional income ought to have been deducted, instead of 1/3rd is not acceptable on the ground that the

Tribunal has not awarded any amounts for future prospects and amounts awarded under different heads are meager. Hence, there is no perversity in the amount granted by the Tribunal, warranting interference by this Court.

9. In the result, the Civil Miscellaneous Appeal is dismissed and the sum of Rs.2,84,200/- awarded by the Tribunal as compensation is confirmed. The learned counsel for the appellant submitted that as per the direction of this Court, the entire award amount has been deposited by the appellant to the credit of M.C.O.P.No.250 of 2012. Hence, the respondents are permitted to withdraw the award amount as apportioned by the Tribunal, with accrued interest and costs, after adjusting the amount, if any, already withdrawn. No costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gsa
To

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

Copy to

The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.G.Udaya Kumar, Advocate sr 78960.

+1 CC to Mr.T.P. Prabhakaran, Advocate sr 78966.

CMA.No.2322 of 2015

NRI (CO)
SP(10/01/2019)

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