

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 20.08.2018  
CORAM  
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE  
C.M.A.No.1922 of 2011  
and  
M.P.No.1 of 2011

M/s. United India Insurance Co.Ltd,  
Divisional Manager,  
Katpadi Road,  
Vellore.

... Appellant

..Vs..

1.Vijaya,

2. Minor, Balaji,  
Represented by Vijaya

3. Minor. Murali Krishnan,  
Represented by Vijaya

4. Thiru. T. Venkatesan

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree passed in M.C.O.P.No. 648 of 2007 on 30.06.2010 on the file of the Learned Motor Accident Claims Tribunal (Principal District - Judge) at Vellore - District.

For Appellant : Mr.J.Chandran

For Respondents 1 to 3 : Mr.M.Sivakumar

For Respondent 4 : No appearance

J U D G M E N T

The instant appeal has been filed by the Insurance Company challenging the award dated 30.06.2010 passed by the Motor Accident Claims Tribunal (Principal District Judge at Vellore) in M.C.O.P.No. 648 of 2007.

The brief facts leading to the filing of the instant appeal are as follows.

2. The deceased Saravanan was a pillion rider on a Motor Cycle bearing Registration No. TN 23 AZ 7735 and the Motor Cycle was driven by the 4<sup>th</sup> respondent and the said vehicle met with an accident on 09.01.2006 at about 13.40 hours at Sholinghur,

resulting in the death of the deceased Saravanan. The legal representatives of the deceased Saravanan have preferred a claim against the appellant seeking compensation in M.C.O.P. No. 648 of 2007 before the Motor Accident Claims Tribunal (Principal District Judge at Vellore). By its judgment and decree dated 30.06.2010, the Motor Accident Claims Tribunal has awarded a compensation of Rs.3,84,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization to the legal representatives of the deceased Saravanan who have been arrayed as respondents 1 to 3 in the instant appeal.

3. Aggrieved by the award of the Motor Accident Claims Tribunal, the instant appeal has been filed by the appellant/Insurance Company.

4. Heard Mr. J.Chandran learned counsel of the appellant and Mr.M.Sivakumar, learned Counsel for the respondents 1 to 3.

5. According the learned counsel for the appellant, since the deceased Saravanan was under the influence of alcohol, his legal representatives are not entitled to claim compensation from the appellant. Having established before the Tribunal that the deceased Saravanan was under the influence of alcohol, the Tribunal has erroneously awarded compensation to the legal representatives of the deceased Saravanan.

6. Per contra, the learned counsel for the respondents 1 to 3 would submit that the deceased Saravanan was only a pillion rider and not the driver of the vehicle. Therefore according to the learned counsel for the respondents 1 to 3, the Tribunal has rightly awarded the compensation. According to the learned counsel for the respondents 1 to 3, the accident happened, not due to the fault of the deceased Saravanan and therefore, the Tribunal has rightly awarded compensation to the legal representatives of the deceased Saravanan.

7. This court after having considered the materials available on record and after having perused and examined the award which is the subject matter of challenge and after hearing the submissions of respective counsels, observes the following:-

i. It is an undisputed fact that the accident happened, not due to the fault of the deceased Saravanan who was only a pillion rider in the Motor cycle .

ii. Being a fatal accident, the deceased Saravanan being a cycle shop owner, the Tribunal has awarded a total compensation of Rs.3,84,000/- in the following manner:

|                                  |   |               |
|----------------------------------|---|---------------|
| a) Loss of Income Rs.3000x1/3x12 | = | Rs.3,60,000/- |
| = Rs.24,000/- x 15 yrs           |   |               |
| b) Loss of consortium            | = | Rs. 15,000/-  |
| c) Transport Expenses            | = | Rs. 3,000/-   |
| d) Funeral Expenses              | = | Rs. 5,000/-   |
| e) Medical Expenses              | = | Rs. 1,000/-   |
| Total                            | = | Rs.3,84,000/- |

8. This court is of the considered view that the compensation awarded to the legal representatives of the deceased Saravanan is in accordance with the settled principles of law as laid down by the decisions of this court as well as the decisions of the Honorable Apex Court. In view of the above observations recorded, this court is of the considered view that the appeal does not call for any interference. There is no merit in the instant appeal.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is hereby confirmed including the pay and recovery right granted to the appellant. The respondents 1 to 3 are permitted to withdraw the amount deposited by the appellant before the Motor Accident Claims Tribunal (Principal District Judge at Vellore) to the credit of M.C.O.P.No. 648 of 2007 by filing appropriate application. Consequently, connected miscellaneous petition is closed. No costs.

Sd/--  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ebsi/nl

To

The Motor Accident Claims Tribunal  
Principal District Judge, Vellore

+1cc to M/s.J.Chandran, Advocate SR.NO.57157

+1cc to M/s.C.Prabakaran, Advocate SR.NO.56756

VSNII(CO)

sm:23.10.2018

C.M.A.No.1922 of 2011