

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.209 OF 2018

1.Vasantha
2.Ganesan

... Appellants/Petitioner

Vs.

1.M.Kumar

2.The United India Insurance Co. Ltd.,
48, Arcot Road, Saligramam,
Chennai - 600 093.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 08.09.2017 made in M.A.C.T.O.P.No.809 of 2014 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Thiruvallur at Poonamallee.

For Appellants : Ms.M.Malar

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the award dated 08.09.2017 passed by the Motor Accident Claims Tribunal, II Additional District Judge, Thiruvallur at Poonamallee, in M.A.C.T.O.P.No.809 of 2014.

2. The claimants are the appellants. They filed a claim petition for the accident that had happened on 13.09.2014 at about 10.00 p.m. In the accident, the mother of the claimants suffered death. The deceased was eighty years old. When she was walking on Ambattur to Pudhur Main Road, the motorcycle rider, rode the vehicle bearing Registration No.TN20-AM-9492 in a rash and negligent manner and hit from behind. In that accident, the deceased suffered head injuries and died on 16.09.2014. Based on Ex.A1 - First Information Report, the Tribunal had found that the rider of the motorcycle was rash and negligent and caused death. Since the deceased was 80 years old, which is evident

from Ex.A5 - Post Mortem Certificate, compensation was computed. Since the deceased was not an earning member, the Tribunal went on awarding a sum of Rs.50,000/- each to the claimants under the head loss of love and affection and Rs.25,000/- towards funeral expenses. Aggrieved over the award, the claimants have preferred the present appeal.

3. According to the claimants, the deceased was a flower vendor and was earning a sum of Rs.300/- per day. Considering the age of the deceased and lack of income proof, the Tribunal has not awarded any amount towards loss of income, transport expenses and for loss of estate.

4. In view of the judgment of the Constitution Bench of the Hon'ble Supreme Court in NATIONAL INSURANCE COMPANY LTD., VS. PRANAY SSETHI AND OTHERS [SLP (CIVIL) NOS.16735 OF 2014 ETC., BATCH DATED 31.10.2017], the award amount ordered by the Tribunal itself is on the higher side. Hence, this Court is not inclined to interfere with the award of compensation. The Civil Miscellaneous Appeal merits no consideration and accordingly, stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-iii)

//True Copy//

Sub Assistant Registrar

TK

To
the Motor Accident Claims Tribunal,
ii additional district Judge, tiruvallur
at poonamallee.

Copy to
The Section Officer, V.R. Section,
High Court, Madras.(2 copies)

+1cc to M/s.m.malar, Advocate, S.R.No. 11454

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mg (CO)
TR(09/04/2018)