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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2018

CORAM :

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1311 of 2008

The National Insurance Co. Ltd.,
Chennai

...Appellant/Respondent II

..Vs..

1.Palanisamy
2.Alamelu
3.Revathi
4.Minor Nandhini
5.Minor Suriya Selvam
(Minors Rep.by mother the
Third Respondent)

...1to5 Respondents/1to5 Petitioners

6.Palanisami

...6th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in MCOP.No.1513 of 2004 on 06.09.2007 on the file of the Learned Motor Accident claims Tribunal (Additional District Judge) F.T.C-II of Salem District.

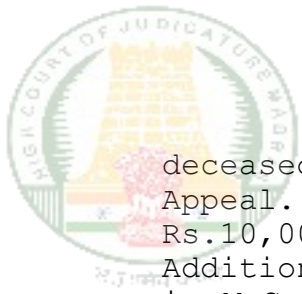
For Appellant	: Mr. J.Chandran
For Respondents 2to 5	: Mr.P.Jagadeesan
For Respondent RR1 & 6	: No appearance

J U D G M E N T

The instant appeal has been filed by the Insurance Company challenging the Award dated 06.09.2007 passed by the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court-II, Salem District in M.C.O.P No.1513 of 2004.

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

2. One Kesavan died as a result of an accident that took place on 06.09.2003 at about 11.00 p.m., caused by a mini lorry bearing registration No.TN30 Z 6513 owned by the sixth respondent and insured with the Appellant. The dependents of the



deceased Kesavan are the respondents 1 to 5 in the instant Appeal. They preferred a compensation claim for a sum of Rs.10,00,000/- before the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court-II, Salem District in M.C.O.P No.1513 of 2004 against the Appellant as well as the sixth respondent who is the owner of the Vehicle. The Tribunal by its award dated 06.09.2007 in MCOP No.1513 of 2004, directed the Appellant to pay the respondent Nos. 1 to 5, a sum of Rs.6,14,000/- together with interest at the rate of 7.5 % per annum from the date of claim till the date of realisation.

3. Aggrieved by the Award dated 06.09.2007 passed by the Motor Accident Claims Tribunal in MCOP.No.1513 of 2004, the instant appeal has been filed by the Appellant Insurance Company.

4. Heard Mr.J.Chandran, learned counsel for the appellant and Mr.P.Jagadeesan, learned counsel for the respondents 1 to 5.

5. According to the learned counsel for the Appellant, the primary ground for challenge in the instant appeal is that the quantum of compensation awarded by the Tribunal under various heads is excessive and not in accordance with the settled principles of law. In the claim statement made by the respondents 1 to 5 before the Tribunal, they did not disclose the details of the registration certificate of the Motor Cycle and the driving licence of the deceased Kesavan was also not produced before the Tribunal. Therefore, according to the learned counsel for the Appellant, the respondents 1 to 5 have not proved that the motor cycle was driven by the deceased Kesavan, at the time of accident.

6. Per contra, learned counsel for the respondents 1 to 5 would submit that only based on the evidence placed on record, the Tribunal has passed the impugned award in favour of the respondents 1 to 5.

7. This Court, after having considered the materials available on record and after having examined the impugned award and after hearing the submissions of the respective counsels, observes the following:

a) It is an undisputed fact that Kesavan died as a result of an accident caused by a mini lorry bearing registration No. TN03 Z 6513 insured with the Appellant.

b) It is also an undisputed fact that the respondents 1 to 5 are the dependents of the deceased kesavan, who filed the compensation claim against the Appellant before the Motor Accident Claims Tribunal.

c) The respondents 1 to 5 have filed 14 documents including copy of First Information Report, Death Certificate, Legal



Heirship Certificate, Contract Licence before the Tribunal which were marked as Exs.P1 to P14. On perusing the First Information Report, it discloses the details that the two wheeler was driven by the deceased kesavan, at the time of accident.

d) The deceased kesavan was 30 years of age at the time of accident and he was a PWD electrical contractor. The claim petition filed by the dependents of the deceased before the Tribunal, disclosed that deceased kesavan was earning a monthly salary of Rs.10,000/- at the time of accident. Under the impugned award, the Tribunal has fixed the monthly salary of the deceased kesavan at Rs.4,500/-. Considering the age of the deceased kesavan, the Tribunal has applied the correct multiplier namely multiplier 17 and has assessed the compensation towards loss of income at Rs.6,12,000/-. The Tribunal has also awarded a sum of Rs.2,000/- towards funeral expenses.

8. In view of the above observations, this Court is of the considered view that the quantum of compensation awarded by the Tribunal in favour of the respondents 1 to 5 is a just compensation in conformity with the decisions of this Court as well as the Hon'ble Apex Court.

9. In the result, the Appeal is dismissed without costs. However, there shall be no order as to costs.

10. The Appellant is directed to deposit the award amount passed by the Tribunal along with interest, after deducting the amount that has already been deposited, to the credit of MCOP.No.1513 of 2004 on the file of the Learned Motor Accident claims Tribunal (Additional District Judge) F.T.C-II of Salem District within a period of four weeks from the date of receipt of a copy of this Order. On such deposit being made, the respondent is permitted to withdraw the amount lying to the credit of MCOP.No.1513 of 2004 on the file of the Learned Motor Accident claims Tribunal (Additional District Judge) F.T.C-II of Salem District by filing an appropriate application.

kyl/nl

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
1.The Motor Accident claims Tribunal
(Additional District Judge),
F.T.C-II of Salem District



2. National Insurance Co.Ltd.,
South Zone,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 32.

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3. The Record Clerk,
VR Section,
High Court, Madras.

C.M.A.No.1311 of 2008

pvs(co)
kak(02/01/2018)