

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3061 of 2018
and C.M.P.No.23191 of 2018

M/s.Oriental Insurance Company Ltd.,
Office at No.1/8, Katpadi Road,
Vellore - 63 004.

.. Appellant/2nd Respondent

Vs.

1.Sathar Sonobar

2.Minor.Ashrafunnisa

3.Minor.Sameena ... Respondents 1 to 3/Petitioners

4.K.Dhanraj ... Respondent no.4/1st Respondent

5.R.Shanthi ... 5th Respondent/3rd Respondent

6.United India Insurance Company Ltd.,
T.K.M.Complex, IInd Floor,
Katpadi Road, Vellore.

..6th Respondent/4th Respondent

(Minor respondents 2 & 3 are represented by their mother
and natural guardian, the first respondent herein)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of
Motor Vehicles Act, 1988, against the judgment and decree dated
20.10.2000 made in M.C.O.P.No.405 of 1993 on the file of the
Motor Accident Claims Tribunal, Sub Court, Vellore.

For Appellant : Mr.S.Arun Kumar

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award
dated 20.10.2000 made in M.C.O.P.No.405 of 1993 on the file of
the Motor Accident Claims Tribunal, Sub Court, Vellore.

2. Heard the learned counsel appearing for the appellant and perused the materials available on record.

3. The appellant is second respondent in M.C.O.P.No.405 of 1993 on the file of the Motor Accident Claims Tribunal, Sub Court, Vellore. The respondents 1 to 3 filed the said claim petition, claiming a sum of Rs.25,00,000/- as compensation for the death of one A.V.W.Baseeth Khan, who died in the accident that took place on 21.04.1993.

4. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the auto belonging to the fourth respondent and directed the appellant to pay a sum of Rs.12,45,000/- as compensation to the respondents 1 to 3. Challenging the said award dated 20.10.2000, made in M.C.O.P.No.405 of 1993 granting compensation to the respondents 1 to 3, the appellant-Insurance Company has come out with the present appeal.

5. The contention of the learned counsel appearing for the appellant-Insurance Company that the Tribunal erred in fixing negligence on the part of the driver of the auto belonging to the fourth respondent and liability on the part of the appellant-Insurance Company and fixing a sum of Rs.10,000/- as monthly income of the deceased, is on the higher side are contrary to the materials on record. The Tribunal has considered the evidence of one Tajmul Basha as P.W.1, who travelled along with the deceased, R.W.1, driver of the lorry belonging to the fifth respondent and Ex.P2/copy of F.I.R. and held that the accident occurred only due to rash and negligent driving by the driver of the auto. The Tribunal considered Ex.P3/copy of Motor Vehicle Inspector's report and held that the appellant-Insurance Company is liable to pay compensation to the respondents 1 to 3/claimants. The Tribunal, considering Ex.P8/salary slip and work agreement copy of the deceased, fixed a sum of Rs.10,000/- as monthly income, deducted 1/3rd towards personal expenses and applying multiplier '15', awarded a sum of Rs.12,00,000/- (Rs.10,000/- X 12 X 2/3 X 15) as compensation towards loss of income. The Tribunal has also awarded a sum of Rs.10,000/- towards loss of love and affection, Rs.35,000/- towards medical bills and thus, the Tribunal has awarded a total sum of Rs.12,45,000/- as compensation to the respondents 1 to 3/claimants. The compensation awarded by the Tribunal under different heads are just compensation and not excessive. There is no reason warranting interference by this Court.

6. In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.12,45,000/- awarded by the Tribunal as compensation to the respondents 1 to 3/claimants, along with interest and costs is hereby confirmed. The appellant-Insurance Company is directed to deposit the award amount along with

interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.405 of 1993. On such deposit, the first respondent is permitted to withdraw her share of the award amount, on the basis of apportionment fixed by the Tribunal along with interest and costs, after adjusting the amount, already withdrawn, if any. The shares of the minor respondents 2 and 3 are directed to be deposited in any one of the Nationalized Bank, till they attain majority. The first respondent, being the mother of the minor respondents 2 and 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minor respondents by filing necessary applications before the Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Vellore.
2. The Section Officer,
VR Section,
High Court,
Madras. (2 Copies)

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No. 89103

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and C.M.P.No.23191 of 2018

KJ(CO)
GN(02/05/2019)

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