



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A(MD)No.749 of 2018
and C.M.P. (MD) No.8570 of 2018

The Divisional Manager,
M/s United India Insurance Company Ltd.,
Door No.7A, West Veli Street,
Madurai. ... Appellant/2 nd Respondent

Vs.

1.Anithamai ...1st Respondent/Petitioner
2.Anandhan ...2nd Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the judgment and decree dated 19.09.2014 passed in M.C.O.P.No.123 of 2013 on the file of the Motor Accidents Claims Tribunal (6th Additional District Judge), Madurai.

For Appellant : Mr.G.Prabhu Rajadurai

J U D G M E N T

This Civil Miscellaneous Appeal has been filed to set aside the award dated 19.09.2014, passed in M.C.O.P.No.123 of 2013, on the file of the Motor Accidents Claims Tribunal (6th Additional District Judge), Madurai.

2. The appellant Insurance Company is the second respondent in M.C.O.P.No.123 of 2013. The first respondent/claimant filed the said Claim Petition claiming a sum of Rs.6,00,000/- for the death of one Uma, the mother of the first respondent, in the accident that occurred on 29.08.2012.

3. According to the first respondent, the deceased was travelling as a pillion rider in a two wheeler bearing Reg. No. TN-58-Y-9000(TVS XL) at Saptur to Vandapulli Main Road from South to North in a motorcycle driven by the second respondent. The second respondent suddenly applied the brake and due to which, the deceased fell down from the motorcycle and sustained head injuries and died on the way to hospital. At the time of accident, the deceased was aged about 50 years and was earning a sum of Rs.6000/- by doing tailoring work. The second respondent is the



owner of the motorcycle and the appellant is insurer and hence, both are jointly and severally liable to pay compensation.

4. The second respondent remained ex-parte before the Tribunal. The appellant filed counter statement and contended that due to negligence on the part of the deceased, she fell down from the motorcycle and sustained injuries and died. Suppressing this fact, the first respondent claimed compensation. The second respondent did not possess driving licence at the time of accident.

5. The Tribunal, considering the pleadings, both oral and documentary evidence let in by the parties, held that the accident occurred only due to rash and negligent driving by the second respondent. The Tribunal, in the absence of any evidence with regard to income of the deceased, fixed the notional income of the deceased at Rs.6,000/-, deducted 1/3 rd towards her personal expenses and applying multiplier '13', granted a sum of Rs.6,24,000/- towards loss of income and amounts under other heads. The Insurance Company filed the present appeal, challenging the said award.

6. Heard the learned counsel for the appellant and perused the materials on record.

7. The learned counsel for the appellant contended that the appellant is not challenging the liability of the appellant and contended that he has made submissions only with regard to quantum of compensation awarded by the Tribunal.

8. The contention of the learned counsel for the appellant is that the Tribunal erroneously fixed a sum of Rs.6000/- as notional income of the deceased, in the absence of evidence. The Tribunal, considering the pleadings, the nature of work done by the deceased and the age of the deceased, fixed the notional income at Rs.6,000/-. The age of the deceased is 50 years. The Tribunal did not grant any amount towards future prospectus. The notional income fixed by the Tribunal is reasonable.

9. In the circumstances, the amount awarded by the Tribunal, towards loss of income and under other heads is just and proper and there is no reason to interfere with the said award.

10. The appellant Insurance Company is directed to deposit the entire award amount with interest and costs to the credit of M.C.O.P.No.123 of 2013 on the file of the Motor Accidents Claims Tribunal (6th Additional District Judge), Madurai, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent is permitted to withdraw the amount with interest by making necessary application before the Tribunal.



11. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P.(MD) No.8570 of 2018 is closed.

WEB COPY

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS-II)

To,

1.Motor Accidents Claims Tribunal
(6th Additional District Judge), Madurai.

2.The Record Keeper,
V.R. Section, Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC To MR.G.PRABHU RAJADURAI, Advocate SR. NO. 82657

C.M.A(MD)No.749 of 2018
and C.M.P. (MD) No.8570 of 2018
05.09.2018

CM

TR/SKN/SAR-II(23.11.2018)3P 5C