

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1514 of 2007
and M.P.No.1 of 2007

M/s.United India Insurance Company Limited
6/1/31-A, Salem Main Road
Puduchamppalli
Mettur-636 403. Appellant /2nd Respondent

Vs

1.Madhammal

2.Minor Jeevan Kumar

3.Minor Saranya

Minors rep.by next friend and
mother Madhammal, the first respondent.

4.M.L.Balakrishnan

5.Narender Singh Ajabsingh
(Respondents 4 and 5 set ex-parte
in the Lower Court).

6.M/s.Oriental Insurance Company Limited,
M.G.Road West,
Mumbai-400 086.

... Respondents/Petitioners 1 to 3 and
Respondents 1,3 and 4

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 23.03.2006 made in OP No.149 of
2003 on the file of the Motor Accidents Claims Tribunal
(Subordinate Judge) at Mettur.

For Appellant : Mrs.R.Sreevidhya

For Respondents: Mr.V.R.Anna Gandhi for R1 to R3

JUDGMENT

This appeal is preferred by the appellant Insurance Company against their liability of Rs.3,94,000/- towards compensation to the respondents 1 to 3 / claimants, due to the death of the husband of the first respondent in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 12.07.2003, at about 12.15 p.m., the deceased K.Lakshmanan, a shift driver, accompanied one K.R.F.Shanmugavel, the driver of a tanker lorry bearing Reg.No.TN-45-D-2077, who drove the said lorry. When the lorry was nearing Mell Monavoor, Vellore, another lorry bearing Reg.No.MH-04-A1-4709 came in a rash and negligent manner from the opposite direction and dashed against the tanker lorry. Due to the said impact, the deceased died on the spot. The legal heirs of the deceased filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.7,88,000/- and fixed 50% liability (Rs.3,94,000/-) with interest at the rate of 7.5% per annum from the date of petition, on the appellant Insurance Company.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in holding that the driver of the lorry bearing Reg.No.TN-45-D-2077 was also at fault, without properly appreciating the evidence. She also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the respondents 1 to 3 / claimants has submitted that the Tribunal has properly considered the materials and evidence on record, and had granted the compensation, which is just, fair and reasonable and hence the same need not be interfered with by this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.The case of the claimants is that the lorry bearing Reg.No.MH-04-A1-4709 came in a rash and negligent manner and dashed against the tanker lorry, and due to the same, the

accident took place. A counter statement was filed before the Tribunal on behalf of the sixth respondent Insurance Company, in which it is stated that there was head-on collision between the two lorries and the driver of the tanker lorry was also negligent. As per Ex.P1-First Information Report, it is seen that the lorry bearing Reg.No.MH-04-A1-4709 came in a rash and negligent manner and went to the right side of the road and dashed against the tanker lorry. Taking note of the materials and evidences adduced, the Tribunal came to the conclusion that the accident had occurred due to the rash and negligent driving of both the drivers and accordingly fixed the liability on both the drivers at 50% each. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

8.Ex.P8 is the Salary Certificate of the deceased. Considering the materials and evidences adduced, the Tribunal came to the conclusion that the deceased would have earned a sum of Rs.2,000/- per month, as driver and he would have received Rs.200/- as batta per day for 20 days and accordingly arrived at a sum of Rs.6,000/-. Thereafter, the Tribunal came to the conclusion that the deceased would have spent Rs.1,500/- towards food and other expenses and by deducting the said sum of Rs.1,500/-, added a sum of Rs.1,000/- presuming that he would have earned the said sum through work shop business 5 days in a month and arrived at the monthly income at Rs.5,500/-; annual income at Rs.66,000/- and adopting the multiplier of 17, arrived at the sum of Rs.11,22,000/-. Thereafter, the Tribunal deducted 1/3rd of the amount towards personal expenses of the deceased and arrived at the loss of contribution of the deceased to the family at Rs.7,48,000/- and fixed 50% liability (Rs.3,74,000/-) on the appellant Insurance Company. The Tribunal has correctly analysed the income of the deceased, adopted the correct multiplier and arrived at Rs.7,48,000/- and correctly fixed 50% liability (Rs.3,74,000/-) on the appellant Insurance Company and hence the same is confirmed. The Tribunal has also awarded a sum of Rs.15,000/- towards loss of consortium, Rs.20,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses, amounting to Rs.40,000/- and directed the appellant Insurance Company to pay 50% liability (Rs.20,000/-) out of the said sum, thus fixing the total liability on the part of the appellant Insurance Company at Rs.3,94,000/- with interest at the rate of 7.5% per annum from the date of petition. The Tribunal has properly analysed the materials and evidence available on record and has awarded reasonable compensation towards the above heads and hence the same need not be interfered with by this Court.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount with interest, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The respondents 2 and 3, who were minors, would have attained majority by now. Hence on such deposit being made, the respondents 1 to 3 / claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
(Subordinate Judge), Mettur.

Copy to

The Section Officer,
VR Section, Madras High Court.

+lcc to Mrs.R.Sreevidhya, Advocate Sr.51127
+lcc to Mr.V.R.Anna Gandhi, Advocate Sr.49920

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srg 15/04/2020

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