

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1723 of 2007

and M.P.No.1 of 2007

United India Insurance Co. Ltd.,
Represented by its Branch Manager,
Branch Office-1, Junction Main Road,
Salem-636 004.Appellant/2nd Respondent

Vs

1.Hariharasubramaniam
2.Vijayalakshmi1&2 Respondent/Petitioners
3.D.Ramachandran3rd Respondent/1st Respondent
4.Managing Director,
Tamilnadu Government Transport
Corporation,
Ramakrishna Road, Salem-7.4th Respondent/3rd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgement and decree dated 12.09.2006 made in M.C.O.P.No.1219 of 2002, on the file of Motor Accidents Claims Tribunal, Additional District Judge and Special Judge, Salem.

For Appellant : Mr.S.Arunkumar
For R1 & R2 : Mr.I.Abrar Md. Abdullah
For R4 : Mr.K.J.Siva Kumar

J U D G M E N T

This appeal is preferred by the Insurance Company against the award of a sum of Rs.6,20,000/- towards compensation to the respondents 1 and 2 for the death of their son H.Ramji, in a motor vehicle accident.

2.The case in brief, is as follows:

On 20.08.2001, at about 11.50 pm., a bus was proceeding in the Attur - Salem Main Road in a rash and negligent manner at high speed. At that time, near Odayapatty Branch Road, an

Ambassador Car bearing Registration No.MSS 6556, belonging to the third respondent and insured with the appellant Insurance Company, came from Seelamaickenpatti to Odayapatty Main Road in a rash and negligent manner and hit the rear side of the bus. Due to the said impact, the son of the respondents 1 and 2 by name Ramji, travelling in the car suffered grievous injuries and died on the spot. The respondents 1 and 2 filed a claim petition before the Tribunal claiming a sum of Rs.25,00,000/- as compensation. Considering the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.6,20,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has filed the present appeal.

4.The learned counsel for the appellant / Insurance Company has submitted that the Tribunal ought to have considered the evidence of P.W.1 and P.W.2 and Exs.R1 to R3 to hold that the owner of the car violated the policy conditions and ought to have dismissed the claim against the appellant. It is also submitted that the compensation awarded by the Tribunal is excessive.

5.The learned counsel appearing for the respondents 1 and 2/claimants has submitted that the Tribunal has properly considered the evidence and materials available on record and has arrived at 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 for the appellant and the learned counsel for the claimants and perused the materials available on record carefully and meticulously.

7.The father of the deceased was examined as P.W.1 before the Tribunal. He deposed that his son boarded the Ambassador Car bearing Registration No.MSS 6556 which was driven by his colleague/Eswara Prasad; that when the car was proceeding from Seelamaickenpatti to Odayapatty Main Road, it hit the rear side of the bus and due to the said impact, the deceased died on the spot. The car driver has been examined as P.W.2, who deposed before the Tribunal that when he was entering Salem Bypass Road, the bus in question came in the right side of the road and dashed on the back side of the car. But during cross examination, he deposed that only due to his negligence, the accident had occurred and he has also paid the fine accepting his guilt. He also deposed that he had not given any complaint to the police against the bus driver. Taking note of all these aspects, the Tribunal came to the conclusion that the accident

had occurred only due to the rash and negligent driving of the driver of the car, which factual finding this Court is not inclined to interfere.

8. With regard to the quantum of compensation awarded by the Tribunal, the respondents 1 and 2 /claimants claimed that the deceased was a Trainee Engineer in Metalos Engineer Company and he was earning a sum of Rs.12,000/- per month. Considering the evidence available on record, the Tribunal came to the conclusion that the deceased would have earned not less than Rs.7,000/- per month, deducted a sum of Rs.2,500/- towards personal expenses of the deceased, adopted 13 multiplier and arrived at the contribution of the deceased to the family at Rs.7,02,000/-. The Tribunal has also awarded a sum of Rs.16,000/- towards loss of love and affection and Rs.2,000/- towards funeral expenses and arrived at the compensation of Rs.7,20,000/-. Thereafter, the Tribunal has deducted a sum of Rs.1,00,000/- which has been already given to the claimants on account of the Insurance Policy taken for the car under Ex.R1, in which personal accident cover has also been included, and awarded a total sum of Rs.6,20,000/- as compensation. The Tribunal has correctly fixed the monthly income, adopted the correct multiplier and correctly assessed the loss of income. Hence the same does not require any interference by this Court. The amounts awarded towards other heads are also very reasonable. Further, the Tribunal has correctly deducted a sum Rs.1,00,000/- from the total compensation, which has been given out of the personal accident cover as per Ex.R1.

9. In the result, the Civil Miscellaneous Appeal stands dismissed. The appellant / Insurance Company is directed to deposit the compensation amount with interest, as awarded by the Tribunal, less the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw the same on making proper application before the Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Additional District Judge and Special Judge,
Motor Accidents Claims Tribunal,
Salem.

2.The Section Officer,
V.R.Section,
High Court,
Madras.

+1 cc to Mr.S.Arunkumar, Advocate,sr.62453

+1 cc to Mr.K.J.Sivakumar, Advocate,sr.61985

+2 cc to Mr.I.Abrar Md.Abdullah, advocate,sr.61632 & 62216.

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