

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1718 of 2006

1.S.Kannammal
2.P.Jayasekar
3.C.Vasanthi

.... Appellants/Petitioners

Vs.

1.M.Samsudeen

2.United India Insurance Co.Ltd.,
No.38, Anna Salai, Chennai-2.

(The first respondent herein was the first respondent before the Tribunal and he remained exparte before the Tribunal. Hence notice to the first respondent herein may be dispensed with) Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 10.08.2005 made in MCOP No.4587 of 2004 on the file of the Motor Accident Claims Tribunal (Vth Court of Small Causes) Chennai.

For Appellants : Mr.Varatha Kamaraj for
Mr.N.Shanmuga Sundaram

For R-2 : Mr.D.Baskaran

J U D G M E N T

The legal representatives of one Sriramalu, who met with an accident on 08.09.2004 at 8.50 a.m., while riding his two-wheeler bearing Registration No.TN-04-X-5571 in Vijayaragava Road, due to the rash and negligent driving of the driver of the Auto bearing Registration No.TN-01-L-5974, have filed a claim petition claiming a compensation of Rs.4,00,000/-. The Tribunal based on the materials and evidence available on record, has fastened the liability on the second respondent insurance company and ultimately quantified the compensation at Rs.2,85,000/- with interest at 7.5%pa from the date of claim petition. Feeling aggrieved and being dissatisfied with the

quantum so awarded, the claimants have preferred this appeal seeking enhancement of the same.

2.The learned counsel for the appellants/claimants submitted that the award passed by the Tribunal is inadequate and the same needs considerable enhancement. He further submitted that the Tribunal has failed to consider Ex.P6-medical bill series, which is the actual expenses incurred by the claimants and hence, the same ought to have been given by the Tribunal.

3.Per contra, the learned counsel for the second respondent/ Insurance Company submitted that the award passed by the Tribunal was based on materials and evidence adduced and hence, no interference is required for the same.

4.Heard both sides and perused the records.

5.This is the claimants' appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, there is no requirement for this Court to go into the findings of the Tribunal on negligence and liability of the second respondent to pay compensation.

6.In respect of the compensation awarded by the Tribunal, it is seen that the deceased was 65 years and was earning a sum of Rs.5,000/- per month as per Ex.P8 salary certificate. Considering the materials and evidence available on record, the Tribunal has awarded Rs.30,000/- towards loss of love and affection, Rs.25,000/- towards loss of estate, Rs.2,00,000/- towards loss of income and Rs.20,000/- towards loss of consortium, Rs.10,000/- towards funeral expenses, which, in the opinion of this Court, appear to be just and very reasonable, as the same were determined, based on the conventional methodologies and having regard to the facts and circumstances of the case and hence, the same need not be interfered.

7.It is the main contention of the learned counsel for the appellants/claimants that taking note of Ex.P6 medical bills, the Tribunal ought to have awarded Rs.40,473/- towards medical expenses, which is the actual expenditure incurred towards treatment given to the deceased. To substantiate the same, he produced a copy of Ex.P6 medical bills to the tune of Rs.40,473/- issued between 08.09.2004 and 09.09.2004. On a perusal of the award, it is seen that the deceased succumbed to the injuries, after some time from the date of accident. Though no doctor was examined to speak about the genuineness of the bills produced by the claimants, having regard to the admitted fact that the deceased was admitted in the hospital on 08.09.2004 and died on 09.09.2004, this Court feels it just and

proper to award a sum of Rs.40,473/- towards medical expenses incurred by the claimants and is accordingly, awarded.

8.In the result, the Civil Miscellaneous Appeal is partly allowed, by enhancing the quantum of compensation from Rs.2,85,000/- to Rs.3,25,473/- with interest at the rate of 7.5% per annum, from the date of petition till the date of deposit. No costs. The second respondent insurance company is directed to deposit the said compensation amount with interest and costs, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are permitted to withdraw the same, as per the ratio of apportionment made by the Tribunal, on making proper application. The appellants/claimants shall pay the necessary court fee for the enhanced compensation amount before receiving the copy of this judgment.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal, Vth Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section, High Court, Madras.

+1cc to Mr.N.Shanmuga Sundaram, Advocate SR.No.64338

+1cc to Mr.D.Baskaran, Advocate SR.No.64104

C.M.A.No.1718 of 2006

MG(CO)
GMY(21/07/2020)

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