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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.179 of 2006
and C.M.P.No.587 of 2006

United India Insurance Co.Ltd.,
Post Box No.34, C.G.Complex,
139, Kumaran Road,
Tiruppur-641 601.

... Appellant /3rd Respondent

Vs

1.Rajammal

2.R.Gomathi

3.R.Shanmugasundaram

4.A.Selvaraj

5.R.Sivagami

... Respondents 1 to 5/Petitioner
1 to 3 & Respondents 1 & 2

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.11.2004 made in MCOP No.24 of 2004 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Coimbatore.

For Appellant : Mr.M.B.Gopalan

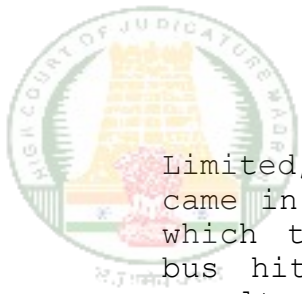
For Respondents : No appearance for R1 to R3

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.5,06,800/- towards compensation to the respondents 1 to 3 / claimants, due to the death of the husband of the first respondent / brother of the respondents 2 and 3.

2.The case in brief, is as follows:

On the fateful day, ie. on 01.07.2003, the husband of the first respondent by name Chandrasekar, was riding his two-wheeler bearing Reg.No.TN-38-E-1822 (Bajaj M80) in the DB Road, Coimbatore. When he reached near Tamil Nadu Mercantile Bank



Limited, a private bus (Route No.7) bearing Reg.No.TN-38-D-3639 came in a rash and negligent manner and overtook the two-wheeler which the said Chandrasekar was riding. While overtaking, the bus hit the right side handle bar of the two-wheeler, as a result of which the said Chandrasekar was caught under the left side wheel of the bus and dragged on to certain distance. Due to the said impact, he sustained grievous head injuries and 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.5,06,800/- with interest at the rate of 9% per annum from the date of petition.

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

4.The learned counsel for the appellant has submitted that the Tribunal has erred in awarding a sum of Rs.4,96,800/- under the head 'pecuniary loss', without any acceptable evidence of proof of earnings. He further submitted that the multiplier fixed by the Tribunal is not correct.

5.There is no representation on behalf of the respondents 1 to 3 / claimants.

6.Heard the learned counsel for the appellant.

7.While calculating the loss of income, based on the School Transfer Certificate of the deceased marked as Ex.P8, the Tribunal ascertained the date of birth of the deceased as 10.10.1975. With regard to the income of the deceased, P.W.4-Rajendran was examined, who was the co-employee of the deceased. He deposed before the Tribunal that the deceased was working in Sudalaimuthu Company along with him, as Office Assistant from 1993 and he was earning a gross monthly income of Rs.3,876/- and after deductions, he was receiving a net salary of Rs.3,462/-. Salary Certificate has been marked as Ex.P13. Accordingly the Tribunal fixed the monthly income of the deceased at Rs.3,462/-. Thereafter, the Tribunal deducted a sum of Rs.1,162/- towards personal expenses of the deceased and arrived at the contribution of the deceased to his family per year at Rs.27,600/-; adopted the multiplier of 18 in relation to the age of the deceased, and arrived at Rs.4,96,800/- towards loss of income. The Tribunal has correctly arrived at Rs.4,96,800/- towards loss of income by adopting the correct multiplier, based on the materials and evidence available on record in a proper manner and hence the same does not require any interference by this Court. Further, the Tribunal has awarded only Rs.2,000/- towards funeral expenses and Rs.8,000/- towards loss of love and affection, which are very reasonable.



8. In view of the above stated circumstances, 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 as ordered by the Tribunal with interest, 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. On such deposit, the claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Coimbatore.
2. The Section Officer,
VR Section, Madras High Court. (+2 Copies)

+1cc to Mr. M. B. Gopalan, Advocate Sr. 48156

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br[co]
srg 18/09/2019