

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 06.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.3623 of 2004

M/s.New India Assurance Co. Ltd.

Divisional Office,

Paramathi Road,

Namakkal.

... Appellant/2nd Respondent

Versus

1. Kannammal

2. Minor-Ravi

3. Minor Sivaranjani

... Respondents 1 to 3/Claimants

Minors are represented by mother

and next friend Kannammal

4. P.P.Balasubramaniam

5. Natchiammal

... Respondents 4 & 5/

Respondents 1 & 3

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.305 of 2003 dated 11.12.2003, on the file of the Motor Accidents Claims Tribunal / Additional District Judge, Fast Track Court, Namakkal.

For Appellant : Mrs.R.Srividya

For Respondents: Mr.P.Tamilkumaran

(for R1 to R3 and R5)

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal in MCOP No.305 of 2003 dated 11.12.2003, the appellant / Insurance Company preferred this Civil Miscellaneous Appeal.

2. The facts of the case are that on 02.05.1999 at about 00.30 hrs at infront of Namakkal Marbles on the Namakkal to Salem Main Road while the deceased Muthusamy was riding in a Motor cycle, the lorry bearing Registration No.TN 09 B 6850 came from north to south with great speed in a rash and negligent

manner and dashed behind the deceased in which the deceased died on the spot. He was aged about 39 years at the time of accident and he was the owner of three lorries and one Tanker lorry as well as he was an agriculturist. Since he was a sole bread winner of the family, the legal heirs of the deceased Muthusamy filed a petition in M.C.O.P.No.305 of 2003 before the Motor Accidents Claims Tribunal / Additional District Judge, Fast Track Court, Namakkal, claiming a sum of Rs.20,00,000/- towards compensation. The Claims Tribunal, on a consideration of oral and documentary evidence, awarded a sum of Rs.10,54,000/- payable with interest at the rate of 9% per annum.

3. Challenging the same as excessive and disproportionate, the appellant/Insurance Company is before this Court by way of filing this Civil Miscellaneous Appeal.

4. Heard Mrs.R.Srividya, learned counsel for appellant and Mr.P.Tamilkumaran, learned counsel for R1 to R3 and R5 and perused the materials available on record.

5. Considering the age, occupation of the deceased, I find that the compensation amount of Rs.10,54,000/- awarded by the Tribunal is well considered, just and reasonable.

6. As far as the award of compensation is concerned, this Court is not inclined to disturb the same, as the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

7. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal filed by the appellant, and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. 6. In the above circumstances, this Court need not be inclined to interfere with the award passed by the Tribunal. Therefore, the appeal is liable to be dismissed.

8. The Tribunal has properly applied its mind and awarded the compensation in the appropriate heads which need not require any modification. In the above circumstances, this Court need not be inclined to interfere with the award passed by the Tribunal. Therefore, the appeal is liable to be dismissed.

9. In the result,

a) This Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal in M.C.O.P.No.305 of 2003 dated 11.12.2003, on the file of the Motor Accidents Claims Tribunal / Additional District Judge, Fast Track Court, Namakkal.

b) The appellant/Insurance Company is directed to deposit the amount as determined by the Tribunal together with interest at 9% per annum, after adjusting amount, if any, already deposited within a period of eight weeks from the date of copy of this Judgement.

c) On such deposit, the respondents / claimants are permitted to withdraw the said amount as per the apportionment made by the Tribunal with accrued interest, less the amount if any, already withdrawn on filing appropriate application before the Tribunal. The share amount apportioned as compensation to the minor respondents (R2 and R3) is directed to be deposited in a Nationalised Bank till they attain majority. However, the mother/first claimant is permitted to withdraw accrued interest once in three months. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To.

The Additional District Judge, Fast Track Court,
The Motor Accidents Claims Tribunal/
Namakkal.

Copy to

The Section Officer,
VR Section, High Court, Madras-104.

+lcc to M/S.R.Sreevidhya, Advocate Sr.10901

+lcc to Mr.P.Tamilkumaran, Advocate Sr.10293

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srg 13/06/2019