



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.06.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2101 of 2007

Branch Manager,
United India Insurance Co.Ltd.
Katpadi
Vellore-4.

... Appellant

Vs

1.Jaya

2.Munusamy Naidu

3.A.Ramalingam

4.R.Mohana Krishnakumar

5.Branch Manager,
National Insurance Co.Ltd.
305, Bangalore Road,
Krishnagiri.

(Respondents 3 and 4 exparte before the
Lower Court).

... Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 24.03.2004 made in MCOP No.740 of 2002 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate-I, Dharmapuri at Krishnagiri.

For Appellant : Mr.N.Vijayaraghavan

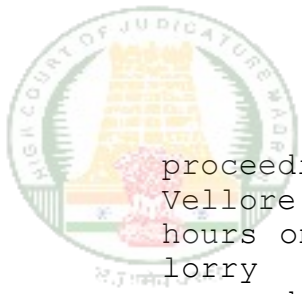
For Respondents : No appearance for R5

JUDGMENT

This appeal is preferred by the appellant Insurance Company against the award of a sum of Rs.8,71,000/- towards compensation to the respondents 1 and 2 / claimants, due to the death of their son in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 24.02.2002, the son of the respondents 1 and 2 by name Dhandapani and his relatives were



proceeding in a car bearing Reg.No.CKP-1908 in Krishnagiri-Vellore NF Road, to attend a marriage at Vellore. At about 16.30 hours on that day, when they were nearing Kattukollai Village, a lorry bearing Reg.No.TN-23-B-1697 belonging to the third respondent herein and insured with the appellant Insurance Company, came from the opposite direction, in a rash and negligent manner and dashed against the car in which the said Dhandapani was travelling. Due to the said impact, the car was crushed and three persons died in the car. The said Dhandapani sustained head injuries and died on the spot. The father and mother, who are 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.8,71,000/- 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.

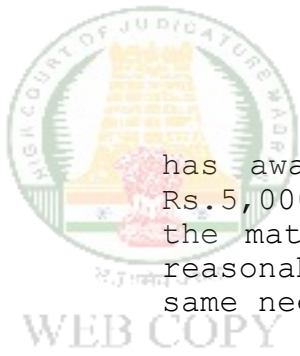
4.The learned counsel for the appellant Insurance Company has disputed only the quantum of compensation awarded by the Tribunal. He submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

6.Even though this appeal was admitted way back in the year 2007, no proper steps have been on the side of the appellant Insurance Company to serve papers to the other side.

7.Since the appellant Insurance Company has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the lorry, need not be interfered with.

8.P.W.7-Sekar, employer of the deceased, deposed before the Tribunal that the deceased was earning a sum of Rs.6000/- per month as Graphic Designer and since he worked for extra hours, he had been given an extra amount of Rs.150/- per day. Since the said sum of Rs.150/- is not a permanent criteria, the Tribunal has taken the monthly income of the deceased as Rs.6000/-, deducted 1/3rd of the amount towards personal expenses, arrived at the annual income at Rs.48,000/-, adopted the multiplier of 18 and awarded a sum of Rs.8,64,000/- towards loss of income. The Tribunal has correctly analysed the income of the deceased, adopted the correct multiplier and arrived at Rs.8,64,000/- towards the contribution of the deceased to the family. Hence, the same is confirmed. With regard to other heads, the Tribunal



has awarded a sum of Rs.2,000/- towards funeral expenses and Rs.5,000/- towards ex-gratia. 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. 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 being made, the claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Asst.Registrar (CS V)

/true copy/
Sub Asst. Registrar

KM

To

1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate-I, Dharmapuri at Krishnagiri.

2.The Section Officer,
VR Section, Madras High Court.

+1 cc to M/s.M.B.Gopalan Advocate sr50792

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