

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2320 of 2006

& M.P.No.1 of 2006

The National Insurance Co. Ltd.,
751 Anna Salai, Chennai - 2 ... Appellant/2nd Respondent

...vs...

1. Vijayan ... Respondents 1 to 5/Petitioners

2. Rani

3. Soundarapandian

4. Sasikala

5. Paulraj

6. M.Rani

...6th Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 09.12.2005 made in M.C.O.P.No.2221 of 2001 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, (FTC-III), Chennai.

For Appellant : Mr. S.Arunkumar

For Respondents: No Appearance.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company, challenging the quantum of compensation awarded by the Claims Tribunal.

2. According to the claimants, on 24.10.2000 at about 11.15 hrs, one Subramani (deceased) was trying to cross the road from East to West at S.N.Chetty Street, Kasimedu, in front of Appu Auto Works, and at that time, the driver of the Lorry bearing Registration No.TN04-B-4377 who drove the same in a rash and negligent manner from North to South, came on the left extreme and dashed against the deceased thereby caused the accident

which resulted the death of the deceased. Claiming that the owner of the lorry and the Insurance Company upon which the lorry was insured are liable to pay the compensation, the Legal Representatives of the deceased filed a claim petition claiming a sum of Rs.3,88,500/- as compensation. As against the said claim, the Tribunal has awarded a sum of Rs.2,45,000/- as total compensation, against which, the Insurance Company has filed the Appeal.

3. The Tribunal, based upon the facts, materials, evidence and also the dictum laid down in the decisions of the Apex Court, has calculated the loss of income at Rs.2,40,000/-, by taking into account the annual loss of income at Rs.24,000/- and multiplier at '10'. Further, awarding Rs.5,000/- towards funeral expenses, the total compensation has been estimated at Rs.2,45,000/-.

4. This Court is of the opinion that the compensation awarded by the Tribunal is reasonable, weight of evidence and based on settled principles and therefore, there is no ground to interfere with the judgment passed by the Tribunal below. Further, the grounds taken by the Insurance Company on the point of liability cannot be raised at this stage and therefore, the same are not accepted at this distant point of time. That apart, the Tribunal has not awarded any sum towards non-pecuniary damages. Therefore, the grounds raised by the Insurance Company are liable to be rejected and they are rejected accordingly. The compensation awarded by the Tribunal is just, fair and reasonable.

5. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, 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 Tribunal is directed to transfer the deposited amount to the Savings Bank Accounts of the claimants / respondents 1 to 5, through RTGS, one week thereafter, as per the ratio of apportionment made by the Claims Tribunal. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Srk

To

1. Motor Accident Claims Tribunal,
Additional District and Sessions
Court, (FTC-III),
Chennai.

2.The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No. 51292

C.M.A.No.2320 of 2006
& MP No.1 of 2006

NRL (CO)
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