

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2019

CORAM:

THE HON'BLE MR.JUSTICE.R.MAHADEVAN

C.M.A.No.2043 of 2005

1. Dhavamani
2. Rathinam

..Appellants/Petitioners

Vs.

1. K.T.Lakshmipathi & Co.Contractors,
No.67, Basin Bridge Road, Chennai-21.
2. The United India Ins.Co.Ltd.,
Motor III Party Claims Office,
No.38, Anna Salai, Chennai-2.Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 29.09.2003 made in MCOP No.75 of 1987, on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court IV, Poonamallee.

For Appellants : Mr.J.Mahalingam
For R-2 : Mr.S.Arun Kumar
For R-1 : Exparte

J U D G M E N T

This Appeal is directed by the claimants against the judgement and decree made in MCOP No.75 of 1987, dated 29.09.2003 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court IV, Poonamallee.

2. The facts, as stated by the claimants, in the claim petition, are as follows:-

(i) On 11.03.1986 at about 9.00 a.m., while the deceased/Veeran was travelling in a lorry bearing Registration No.TNR 269, at G.S.T.Road, near St.Thomas Mount, the driver of the lorry dashed against a lorry bearing Registration No.TDF 8136, which was stationed, and caused the fatal accident. Claiming that the accident had happened only due to the rash and negligent driving of the vehicle by its driver, the first respondent, who is also the owner of the vehicle, which was

insured with the second respondent herein, the claim petition came to be filed by the legal representatives of the deceased/Veeran, claiming a sum of Rs.2,00,000/- as compensation.

3. After contest, the Tribunal has assessed the compensation at Rs.1,14,000/- payable with interest. Claiming that the quantum arrived at is disproportionate to the income of the deceased, the claimants have preferred the appeal.

4. Heard the learned counsel for the appellants/claimants as well as the Insurance Company/second respondent

5. The learned counsel appearing for the appellants/claimants submitted that the award passed by the claims Tribunal under all the heads is very low and it needs substantial enhancement.

6. Per contra, the learned counsel appearing for the Insurance Company/second respondent submitted that in the claim petition itself, the claimants have admitted that the deceased was earning only Rs.25/- per day; in such circumstance, the award passed is perfectly justifiable. The learned counsel would further submit that the Tribunal has awarded the compensation, based on the documents available on record and hence the same does not require any interference.

7. At the outset, it has to be pointed out that the Tribunal framed the following issues for the consideration:-

(i) On whose negligence the accident had happened and whether the Insurance Company and the owner of the vehicle are liable to pay the compensation?

(ii) Whether the claimants are entitled to compensation and if so, to what extent?

8. While analysing the said issues, the Tribunal has taken note of the evidence of the eye-witness to the accident PW.2/Dhayalan, who has clearly corroborated the version of PW.1. Further, the Tribunal has taken into account, the statements made in the counter and ultimately held that the owner of the lorry and the appellant herein are liable to pay the compensation. Further, while quantification of the compensation, the Tribunal has taken Rs.25/- as daily income and Rs.750/- as monthly income and deducting 1/3rd towards the personal expenses assessed the compensation under the head loss of income at Rs.1,08,000/- by adopting the multiplier of 18 (aged 26). Further, the Tribunal has awarded a sum of Rs.5,000/- and 1,000/- towards the loss of love and affection and funeral expenses respectively. The Tribunal has rightly applied the

logical inference and assessed the quantum of compensation. Hence, the compensation so quantified is just, fair and reasonable and the same need not be enhanced.

9. In such view of the matter, the award passed by the Tribunal is perfectly valid in the eye of law.

10. In the result, affirming the award of the Claims Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The second respondent / 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 Account of the claimants / appellants herein as apportioned by the Tribunal forthwith, through RTGS.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srk / kv

To

1. The Motor Accidents Claims Tribunal, Additional District Judge,
Fast Track Court IV, Poonamallee.

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

+1 CC to Mr.S.Arun Kumar, Advocate sr 45486.

सत्यमेव जयते

C.M.A.No.2043 of 2005

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