

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2687 of 2005
& CMP No.13953 of 2005

M/s. United India Insurance Co. Ltd.,
Represented by its Divisional Manager,
Tindivanam, Villupuram District...Appellant / 2nd Respondent

...vs...

1. Mr. R.Ramesh ...1st Respondent / 2nd Respondent

2. Mr. Kannan Reddiar ...2nd Respondent / 1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 16.07.2002 made in MCOP No.562 of 1995 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Tindivanam.

For Appellant : Mr. J.Raja Kalifulla

For Respondents : M/s. A.K.Kumarasamy, for R-1

No Appearance, for R-2.

J U D G M E N T

Originally, Claim Petition in MCOP No.562 of 1995 was filed by the claimant, Sampath, in respect of the accident that took place on 01.03.1994 at Sendur Village, Tindivanam Taluk. Pending claim petition, he died on 27.06.1998 and hence, the legal representative of Sampath, Mr.R.Ramesh, was substituted in the place of original claimant.

2. The claim petition has been filed in respect of the grievous injuries on the hip and urine problem, sustained by Sampath / original claimant, aged 15 and a student. As against the claim made for a sum of Rs.1,00,000/-, the compensation has been awarded by the Tribunal at Rs.1,00,000/- with the following breakup details:-

Loss of income - Rs.2,25,000/-
(Rs.15,000/- x 15)

Total - Rs.2,25,000/-

(Restricted to) Rs.1,00,000/-

3. Challenging the quantum of compensation as excessive and exorbitant, the Insurance Company has filed the Appeal.

4. The learned counsel for the appellant / Insurance Company would submit that Ex.P-3-wound certificate has no legal sanctity. The learned counsel further submitted that the award passed is not in accordance with the well settled principles laid down by the Hon'ble Apex Court and therefore, the award requires proportionate reduction.

5. In order to appreciate the said contentions, it is necessary to find out the parameters on which the Tribunal has considered and passed the award.

6. A perusal of the award of the Tribunal would go to show that the first respondent herein has proved the accident, death, his status as the Legal Representative of the deceased Sampath and the negligence on the part of the second respondent, through the oral and documentary evidence.

6.1. The appellant herein has not produced any contra evidence, refuting the evidence of P.Ws.1 and 2. Hence, the evidence of P.Ws.1 and 2 stand without challenge. In the absence of any evidence being adduced on the side of the appellant herein / Insurance Company, its contention cannot be accepted.

7. Also, from the history of accident / record of treatment given to the original claimant (Sampath), more particularly Ex.P-3, it is evident that Sampath has sustained grievous injuries. Considering this, the income of Sampath has been awarded by the Tribunal that too notionally and restricted to the amount claimed by the original claimant. Hence, the amount of compensation arrived at by the Tribunal cannot be said to be excessive, considering the age and the impact of injuries upon Sampath.

8. In view of the above reasonings, upholding the award of the Tribunal, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, the connected CMP is closed.

9. The appellant / Insurance Company is directed to deposit the amount of compensation, interests and costs, as determined by the 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 shall transfer the total amount to the Savings Bank Account of the claimant / first respondent herein, through RTGS, forthwith.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Motor Accident Claims Tribunal,
The Subordinate Court,
Tindivanam

copy to: The Section Officer,
VR Section, High Court, Madras.

+1 cc to Mr.J.Raja Kalifulla, Advocate, S.R.No.45531

C.M.A.No.2687 of 2005
& C.M.P.No.13953 of 2005

CA(CO)
SSM(25/09/2019).

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