IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.07.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2751 of 2008 and
M.P.No.1 of 2008

M/s. The New India Assurance Company Ltd
No.2, P.R.Complex Road
Annasalai
Chennai : Appellant / 2nd Respondent

Vs

1.Bhuvaneswari
2.Minor Suganya
3.Minor Sanjai
(2nd and 3rd respondents are represented by their mother & guardian/1st respondent)
4.Premnath : Respondents 1 to 3 / Petitioners 1 to 3 /4th Respondent/1st Respondent

(R4 set exparte in the Lower Court)

Prayer: Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 28.04.2008 made in MCOP No.170 of 2006 on the file of the Motor Accidents Claims Tribunal/Subordinate Judge, Sankari.

For Appellant : Ms.R.Sree Vidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the award of a sum of Rs.6,64,000/- towards compensation to the respondents 1 to 3 herein, who are the legal representatives of one Kandasamy, who died in a Motor vehicle accident.

2.The case in brief, is as follows:

On 18.02.2006, at about 5.30 am, when the deceased Kandasamy was going near Association Petrol Bunk, Tiruchengode to Erode Road, a lorry bearing Reg.No.TN 21 M 1990, came in a rash and negligent manner and hit the deceased, due to which, he sustained grievous injuries and died on the spot itself. Stating that the accident had happened only due to the rash and negligent driving of the driver of the lorry, the respondents 1 to 3, who are the legal heirs of the deceased have filed a claim petition before the Tribunal claiming a compensation of Rs.10,00,000/-. After elaborate trial, the Tribunal has awarded a total compensation of Rs.6,64,000/- with interest at the rate of 7.5% per annum from the date of petition.

3. Challenging the quantum of compensation awarded by the Tribunal, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4. Despite ordering notice, the respondents have not been served. However, due to the paucity of time, the appeal is taken up for consideration on merits.

5. Heard the learned counsel for the appellant.

6. The learned counsel for the appellant submitted that the Tribunal erred in awarding the disproportionate compensation without properly appreciating the evidence and the rulings of the Apex Court. The learned counsel further submitted that in the absence of any document to prove the income, the Tribunal has erred in taking the monthly income of the deceased as Rs.6,000/-, which is contradictory to the evidence of PW3. Hence, the award of the Tribunal has to be reduced significantly.

7. At the outset, it is to be noted that the liability fixed by the Tribunal, on the part of the appellant herein is not disputed. On a perusal of the award passed by the Tribunal, it is crystal clear that initially the deceased had worked nearly 5 years, under one Sengottuvel and was earning monthly salary of Rs. 10,000/-. Later, he switched over his job and was doing business on his own and his average monthly income would be at Rs.6,000/-. After considering the evidence of PWs1 to 3, the Tribunal has fixed the monthly income of the deceased at Rs.6,000/- and by applying the multiplier method, calculated the compensation towards loss of earnings to his family at Rs.6,24,000/-, which this Court is not inclined to interfere, as the same is fair, just and reasonable, considering the facts and circumstances of the case.

8. Further, the compensation awarded under other heads i.e Rs.15,000/- towards loss of consortium, Rs.10,000/- each towards loss of love and affection to the minor children and Rs.5,000/- towards funeral expenses are also fair and reasonable and the same need not be interfered with by this Court.

9. In such view of the matter, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount along with interest and costs, as ordered by the Tribunal, after deducting the amount if any already deposited, 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/ Respondents 1 to 3 herein, through RTGS, as per the ratio of apportionment made by the Tribunal within one week thereafter. The minor claimants/Respondents 2 & 3 would have attained majority by now and hence, on such application being taken out by them, the guardianship may be discharged and their share can be transferred to their Savings Bank Account.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

vrn

To

1. The Motor Accident Claims Tribunal/Subordinate Judge, Sankari.

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

+1cc to Ms.R.Sree Vidhya, Advocate, SR.No.58641.

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M.P.No.1 of 2008

MP (CO)
CSR(03/01/2020)