

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1339 of 2009

M/s.HDFC Club General
Insurance Company'
Avinashi Road,
(Near Anna Statue)
Coimbatore District.

... Appellant

Versus

1. M.Marannan
2. M.Rukkumani
3. M.Pandiayrajan
(Ex-parte in the lower Court)
4. M/s.Cholamandalam MS General Insurance Co.Ltd.,
Coimbatore
(Given up by the lower Court)
5. T.Rajkumar
(Ex-parte in the lower Court)
6. M/s. National insurance Company Ltd.
City Branch III,
1152/1153 Trichy Road,
Ramanathapuram
Coimbatore - 641 045.
(Given up by the lower Court) ... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.82 of 2005 dated 30.07.2008, on the file of the Motor Accidents Claims Tribunal /Chief Judicial Magistrate cum District Judge, Coimbatore.

For Appellant :Mrs.R.Srividya

For Respondents :Mr.S.Arunkumar (for R6)
No appearance (for R1 and R2)

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal in MCOP No.82 of 2005 dated 30.07.2008, the appellant / Insurance Company preferred this Civil Miscellaneous Appeal.

2. The first and second respondents are father and mother of the deceased son. The deceased was aged about 22 years and employed as a Mechanic in Rajanarayana Textiles at Sundarapuram. On 24.05.2004 at about 7.p.m, while the deceased was riding a motor cycle of his friend, bearing Registration No. TN 37 AB 7840 on Sundarapuram Main Road, another motor cycle bearing Registration No.TN 37 AF 2290 belongs to 3rd respondent came in rash and negligent manner and hit against the deceased in which he was died. the parents/legal heirs of the deceased Sakthivel filed a petition in M.C.O.P.No.82 of 2005 before the Motor Accidents Claims Tribunal /Chief Judicial Magistrate cum District Judge, Coimbatore, claiming a sum of Rs.6,00,000/- towards compensation. The Claims Tribunal, on a consideration of oral and documentary evidence, awarded a sum of Rs.2,65,000/- payable with interest at the rate of 7.5% per annum from the date of petition to till the date of payment.

3. Challenging the same as excessive and disproportionate, the appellant/Insurance Company is before this Court by way of filing this Civil Miscellaneous Appeal.

4. Heard Mrs.R.Srividya, learned counsel for appellant and Mr.S.Arunkumar, learned counsel for R6 and perused the materials available on record.

5. As far as the award of compensation is concerned, this Court is not inclined to disturb the same, as the Tribunal has applied its mind and awarded compensation properly. The Tribunal has considered and passed the award with proper heads. The Appellant/Insurance Company has not raised any valid ground for the interference by this Court.

6. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal filed by the HDFC Club General Insurance Company, and the quantum of compensation assessed by the Tribunal, cannot be said to be improper.

7. Though it is a fatal case, the award of the Tribunal itself is very meager.

8. In the above circumstances, this Court need not inclined to interfere with the award passed by the Tribunal. Therefore, the appeal is liable to be dismissed.

9. In the result,

a) This Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal in M.C.O.P.No.82 of 2005 dated 30.07.2008, on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate cum District Judge, Coimbatore.

b) The appellant/Insurance Company is directed to deposit the amount as determined by the Tribunal together with interest at 7.5% per annum, after adjusting amount, if any, already deposited within a period of eight weeks from the date of copy of this Judgment.

c) On such deposit, the respondents / claimants are permitted to withdraw the said amount as per the apportionment made by the Tribunal with accrued interest, less the amount if any, already withdrawn on filing appropriate application before the Tribunal.

No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vum

To.

1) The Motor Accidents Claims Tribunal/
The Chief Judicial Magistrate cum District Judge,
Coimbatore.

+1 cc to Mrs.R.Sreevidhya, Advocate, S.R.No.14777

GJ(CO)
SSM(30/05/2019).

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