

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1770 of 2009
and
M.P.No.1 of 2009

M/s.Royal Sundaram Alliance
Insurance Co. Ltd.,
Sundaram Tower,
Whites Road, Chennai-14.

Appellant/1st respondent
Vs

1.Saroja
2.Gopalakrishnan

3.Minor.Gomathi
(Minor represented by 1st
respondent herein)

4.Rajendran
(Ex-parte in the Lower Court)

... Respondents 1 to 3/ Petitioner
4th respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 27.01.2009 made in M.C.O.P.No.156
of 2007 on the file of the Motor Accident Claims Tribunal, Sub-
Court, Chidambaram.

For Appellant : Mrs.R.Sree Vidhya

For R1 to R3 : No Appearance
For R4 : Ex-parte

JUDGMENT

The Civil Miscellaneous Appeal is filed by the appellant /
Insurance Company as against the award of a sum of Rs.5,13,000/-
to the respondents 1 to 3 / claimants for the death of one
Arumugam, who died in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 04.10.2006, at 04.45p.m, the
deceased Arumugam (husband of the first respondent) was standing
in the Manjakollai Bus Stop, Chidambaram, for taking Tea. At

that time, the lorry bearing Reg.No.TN-31-J-4599 belonging to the fourth respondent herein and insured with the appellant Insurance Company, which was plying from Bhuvanagiri to Sethiathoppu, came in a rash and negligent manner and dashed against the deceased Arumugam. Due to the said impact, the deceased sustained severe injuries. He was admitted in the Government Hospital, Chidambaram, but he was declared dead in the hospital. The legal heirs of the deceased filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.5,13,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant / Insurance Company has submitted that the Tribunal has erred in holding that only the lorry driver was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Despite the service of notice and the names of the respondents/claimants having been printed in the cause list, there is no representation on their behalf.

6.Heard the learned counsel for the appellant Insurance Company and perused the materials available on record carefully and meticulously.

7.Considering the evidence of P.W.2-Swaminathan, eye-witness to the accident, who deposed that he saw the accident and that the accident had occurred only due to the rash and negligent driving of the driver of the lorry and no witnesses or documents have been adduced on the side of the Insurance Company to disprove the same, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the lorry, which finding this Court is not inclined to interfere.

8.With regard to the quantum of compensation awarded by the Tribunal, P.W.1/wife of the deceased deposed before the Tribunal that the deceased was a milk vendor and was earning a sum of Rs.10,000/- per month. Since no documentary evidence has been filed to that effect, the Tribunal has fixed the monthly income of the deceased at Rs.4,500/-, arrived at the annual income at Rs.54,000/-, adopted the multiplier of 13, deducted 1/3rd of the amount towards his personal expenses and arrived at the sum of Rs.4,68,000/- towards loss of income. The Tribunal has also awarded a sum of Rs.30,000/- towards loss of love and affection and Rs.15,000/- towards transportation and funeral expenses. The Tribunal has rightly considered the materials and evidence,

correctly assessed the income of the deceased, adopted the correct multiplier and arrived at Rs.4,68,000/- towards loss of income. The amounts awarded by the Tribunal towards other heads are also very reasonable and hence the same are confirmed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount with interest and costs, as ordered by the Tribunal, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The minor respondent would have attained majority by now. On such deposit, the respondents/ claimants are permitted to withdraw their respective shares, as apportioned by the Tribunal on making proper application.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gbi
To

1. The Judge,
Motor Accident Claims Tribunal, Sub-Court, Chidambaram.

2.The Section Officer,
VR Section, Madras High Court.

+lcc to Mrs.R.Sree Vidhya, Advocate SR.No. 71457

C.M.A.No.1770 of 2009
and

M.P.No.1 of 2009

A.SK(22/07/2020)

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