

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2019

Coram:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Civil Miscellaneous Appeal No.1775 of 2009 and
M.P.No.1 of 2009

The United India Insurance Co.Ltd
No.30, Siva Muthiah Mudali Street
5th Lane, Royapettah
Chennai - 14

Appellant /1st Respondent

Vs

1. Rajeshwari
2. Aruna
3. Anuja
4. Gayathri
5. Mohammed Intias Ahamed

Respondents /Petitioner
Claimants 1 to 4/
Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 22.10.2008 passed by the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai in MCOP No.4483 of 2004.

For Appellant : Mr.S.Arun Kumar
For Respondents : Mr. T.Dhanasekaran
for R1 to R4

J U D G M E N T

The Civil Miscellaneous Appeal has been preferred by the appellant / Insurance Company, against the award of Rs.3,74,000/- passed by the Tribunal.

2. In respect of an accident that took place on 06.06.2004 at about 9.15 am at Chepauk Village, involving a mini lorry bearing Reg.No. TN 07 T 9465, owned by the 5th respondent herein and insured with the appellant herein, one N.Radha Krishnan got grievous injuries and subsequently died. Stating that the accident had happened due to the rash and negligent driving of the driver of the said mini lorry only, the legal heirs of the deceased N.Radha Krishnan have filed a claim

petition before the Tribunal, claiming a compensation of Rs.5,00,000/-. As against the said claim, the Tribunal has awarded a sum of Rs.3,74,000/- as total compensation.

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

4. Heard both sides

5. The learned counsel for the appellant has submitted that the award of the Tribunal is erroneous, contrary to law, weight of evidence and probabilities of the case. The learned counsel further submitted that the Tribunal has erred in holding that the driver of the mini lorry was responsible for the accident. It is further submitted that the Tribunal failed to note that the deceased already attained superannuation and was working in the extended period of two years. Further, the children of the deceased are married and they are not the dependants of the deceased and hence they are not entitled to get compensation. The learned counsel further submitted that the Tribunal has erred in awarding a huge sum as compensation and hence, the same warrants interference by this Court.

6. The learned counsel for the respondents 1 to 4/claimants submitted that the Tribunal has rightly fastened the liability on the driver of the mini lorry and based on evidence and documents placed before it, awarded just compensation for Rs.3,74,000/-, which does not require any interference by this Court.

7. In order to verify the negligence on the part of the driver of the mini lorry, the examination of the award passed by the Tribunal is necessary. A perusal thereof would go to show that Ex.P.1 First Information Report discloses that the accident had occurred only due to the rash and negligent driving of the mini lorry by its driver. Further, the Tribunal has fastened the liability on the part of the driver of the mini lorry after scrutinizing the evidence and documents placed before it. As far as the legal heirs of the deceased is concerned, the Tribunal has rightly taken into consideration the Legal Heir Certificate (Ex.P.7), which clearly shows that the claimants are actual legal heirs of the deceased. Hence, the findings arrived at by the Tribunal on these aspects do not warrant any interference by this Court.

8. Regarding the quantum of compensation, the Tribunal has taken into consideration the evidence of PW 1, Ex.P.4 Salary Certificate and Ex.P.8 Post Mortem Certificate and taken the age of the deceased as 60 and fixed his monthly salary at Rs.5,500/- (as per Ex.P.4) and calculated the annual income (Rs.5,500/-x12) at Rs.66,000/- and deducting 1/3rd towards his personal expenses and applying the multiplier 8, the Tribunal has arrived at Rs.3,52,000/- towards loss of income. Further, the Tribunal has awarded Rs.2,000/- towards funeral expenses, Rs.20,000/- towards loss of love and affection, totalling to Rs.3,74,000/-. The amounts awarded by the Tribunal under the above heads are just and reasonable and hence, the same are confirmed as such.

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 as ordered by the Tribunal with interest, 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 4 herein, as per the apportionment made by the Tribunal, through RTGS, within one week thereafter.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

vrn

To

1. The Motor Accident Claims Tribunal/
VI Court of Small Causes,
Chennai

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

+1 cc to Mr.S.Arunkumar Advocate sr72186

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