

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.01.2019
CORAM
THE HONOURABLE MRS. JUSTICE R. HEMALATHA
C.M.A.NO.1776 OF 2009
and
M.P.NO.1 of 2009

The National Insurance Co. Ltd.
Erode

...Appellant

Vs.

1. K.Kannammal
2. K.Kalaiselvi
3.K.Rajan
4.Kaleeshwaran

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and decree passed in M.C.O.P. No.417 of 2007 on 30.04.2008 on the file of the learned Additional Dist. Judge, Motor Accident Claims Tribunal (F.T.C.II) of Gobichettipalayam, Erode District.

For Appellant : Mr.J.Chandran
For Respondents : Mr.Ma.Pa.Thangavel for R1 to R3
R4 - Not ready.

JUDGMENT

The appellant National Insurance Company Limited, Erode, is the second respondent in M.C.O.P. No.417 of 2007 on the file of the Additional District Judge, Motor Accident Claims Tribunal (F.T.C.II), Gobichettipalayam, Erode District.

2. The respondents 1 to 3 / claimants filed the abovesaid claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.2,52,000/- for the death of one Karupanna Gounder, husband of the first claimant and father of the claimants 2 and 3, in a road accident that took place on 13.06.2006. According to the claimants, when the deceased was riding his bicycle on Sakthi-Gopi Main road, a speeding motor cycle bearing registration No.TN 36A 5063, hit the bicycle, as a result of which, the deceased Karupanna Gounder fell down and died subsequently as a result of the injuries sustained by him. The further contention of the respondents 1 to 3 / claimants is

that the rash and negligent riding of the rider of the two wheeler was the cause of accident and that since the said two wheeler was insured with the present appellant, both of them are jointly and severally liable to pay compensation of Rs. 2,52,000/- to them.

3. The present appellant contested the claim petition before the tribunal. The learned Additional District Judge, after analysing the records, awarded a compensation of Rs.90,000/- to the claimants together with interest at the rate of 7.5% per annum from the date of claim petition.

4. Aggrieved over the orders passed by the tribunal, the National Insurance Company Limited, has filed the present appeal under Section 173 of the Motor Vehicles Act 1988.

5. Mr. J. Chandran, learned counsel appearing for the appellant would contend that the deceased was discharged from the hospital on 16.06.2006 and that he did not die on account of the accident that took place on 13.06.2006.

6. per contra, Mr. Ma. Pa. Thangavel, learned counsel appearing for the claimants would contend that the deceased sustained head injuries and died on 16.06.2006 immediately after the discharge from the hospital and that the death was due to the injuries sustained by him in the road accident that took place on 13.06.2006.

7. A perusal of the medical records shows that the deceased sustained head injuries and died on the same date of discharge from the hospital and therefore, it can be safely concluded that the deceased died on account of the accident, especially, when he did not have any other ailment. As far as the quantum of compensation is concerned, no arguments were advanced by the counsel for the appellants as well as the claimants. The tribunal, after considering various aspects, has awarded a sum of Rs.90,000/- together with interest at the rate of 7.5%. By no stretch of imagination, the quantum of compensation awarded by the tribunal can be said to be on the higher side and therefore, the appeal is liable to be dismissed.

8. In the result,

(i) The appeal filed by the National Insurance company Limited is dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

(ii) The award passed by the Tribunal is upheld.

(iii) The appellant / Insurance Company is directed to pay the entire compensation amount of Rs.90,000/- to the claimants, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, less the amount

already deposited by them, within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the appellant, the claimants are entitled to withdraw the same as per the apportionment made by the tribunal, after following due process of law.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

bga

To,

1.The Additional Dist. Judge,
Motor Accident Claims Tribunal (F.T.C.II),
Gobichettipalayam, Erode District.

2.The Record Keeper,
VR Section,
High Court, Madras.

+1cc to Mr.Ma.Pa.Thangavel, Advocate sr.8953

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nr 25/09/2019

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