

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1789 of 2009
and
M.P.No.1 of 2009

M/s United India Insurance
Company Ltd., Divisional Office-2,
104-A, Perambalur Main Road,
Salem-636 007.

...Appellant/2nd Respondent

Vs

1. Sangiliammal @ Sangileeswari
2. Minor- Jothika
3. Minor - Santhiya
(Minors are represented by their
mother and guardian Sangiliammal @
Sangileeswari)
4. Palaniammal
5. Kariya Gounder
6. Vasanthi

...Respondents 1 to 5/Petitioners
5th Respondent/1st Respondent

(R6 exparte in the Lower Court)

Appeal filed under Section 173 of the Motor Vehicles Act
against the Decree and Judgment dated 12.12.2007 made in
M.C.O.P.No.79 of 2006 on the file of the Motor Accident Claims
Tribunal (Subordinate Judge) at Mettur.

For Appellant		: Mrs.R.Sree Vidhya
For Respondents	1-3	: Mr..V.R. Anna Gandhi
R-6		Exparte

JUDGMENT

This appeal is preferred by the Appellant/ Insurance Company
against the Decree and Judgment dated 12.12.2007 made in
M.C.O.P.No.79 of 2006 on the file of the Motor Accident Claims
Tribunal (Sub Court) at Mettur.

2.The case in brief, is as follows:

On the fateful day, ie. on 27.12.2005 at about 8:30 p.m when
the deceased (Sevidamuthu @ Soudamuthu) was proceeding in his

TVS-50 two-wheeler bearing Registration No.TN-59-J-9535 from Mecheri to Omalur Road, near Sathapadi bus stop, the tipper lorry bearing Registration No.TN-32-A-2319 from the opposite direction in a rash and negligent manner and dashed against the two wheeler. Due to the said impact, the rider of the two wheeler sustained multiple and grievous injuries and subsequently died. The legal heirs of the deceased filed a claim petition claiming a compensation of Rs.12,00,000/-. The Tribunal, on consideration of the materials and evidence available on record, has arrived at the total compensation at Rs.6,53,000/- with interest at the rate of 7.5% p.a., from the date of petition. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant/Insurance Company has contended that the Tribunal has erred in holding that the driver of the lorry was rash and negligent and was responsible for the accident. She further contended that in the absence of any documentary proof regarding the monthly income of the deceased, the Tribunal has fixed the annual income of the deceased at Rs.36,000/- which is improper.

4.Per contra, the learned counsel for the respondents 1 to 3/claimants has submitted that the Tribunal has rightly considered the materials and evidence and has arrived at the compensation, which is just, fair and reasonable and hence the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6.Before the Tribunal, the wife of the deceased was examined as P.W.1, who deposed that the accident had taken place only due to the inattentive attitude of the driver of the lorry. P.W-2/Ganesan is the eye-witness to the accident. He deposed that, at the time of the accident, he was proceeding in his two wheeler behind the two wheeler of the deceased and the lorry in question came at a very high speed without adhering to any traffic rules and dashed against the two wheeler of the deceased. The evidence of P.W.2 corroborates with the contents of Ex.P1/F.I.R, which supports the case of the claimants rather than the appellant. Also, there is no contra evidence adduced by the appellant herein to disprove the documents or evidence marked on the side of the appellant herein. Therefore, the finding of the Tribunal that the appellant herein is liable to pay compensation is in accordance with law and the same warrants no interference by this Court.

7. With regard to the quantum of compensation, the Tribunal has taken Rs.3,000/- per month as the monthly income of the deceased, who was engaged in the business of selling clothes and furnitures, adopted 17 multiplier and arrived at the loss of income at Rs.6,12,000/- (Rs.3,000 x 12 x 17). As the minor respondents have lost their loveable father, Rs.15,000/- was awarded towards loss of love and affection. Considering other relevant materials, the Tribunal has awarded Rs.5,000/- and Rs.1,000/- towards funeral and transport expenses, respectively. Further the first respondent has been awarded a sum of Rs.20,000/- towards loss of consortium, since she has lost her companion at the very young age. This Court is of the view that the findings rendered on quantum by the Tribunal are based on settled principles of law, probabilities of case and weightage of evidence. Hence, the award passed by the Tribunal on quantum is perfectly valid in the eye of law and no interference is required.

8. In the result, the Civil Miscellaneous Appeal is dismissed. 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 major claimants are permitted to withdraw their respective shares. The shares of the minor respondents 2 and 3 shall be deposited in a fixed deposit in any one of the Nationalised Banks till they attain majority. The mother of the minors, the first respondent herein shall withdraw the interest accrued in the bank deposit, once in six months directly from the bank and the same shall be used for the benefit and welfare of the minors. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rk

To

1.The Motor Accidents Claims Tribunal
(Sub Judge) at Mettur.

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

+1cc to Mr.V.R.Anna Gandhi Advocate sr71588

+1cc to M/s.R.Sreevidhya Advocate sr72816

C.M.A.No.1789 of 2009
and
M.P.No.1 of 2009

aa07/02/2020