

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.1936 of 2009
and

M.P.No.1 of 2009 and M.P. 1 of 2010

The National Insurance Co. Ltd.
Periyar Complex, Salem 636 016. ... Appellant

Vs.

1. M.A.Sathyabhama
2. M.A.Santhakumari
3. M.A.Sarala
4. M.Subramaniam ... Respondents

Prayer This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the orders dated 30.01.2009 passed in M.C.O.P.No.1424 of 2005 by the Principal District Judge/ Motor Accident Claims Tribunal, Salem.

For Appellant : Mr.J.Chandran

For Respondents : Mr.A.V.Arun for R1 to R3
No appearance for R4

J U D G M E N T

The National Insurance Company Limited, Salem, who is the 2nd respondent in MCOP No.1424 of 2005 on the file of the Principal District Judge/ Motor Accident Claims Tribunal, Salem has filed the present appeal questioning the quantum of compensation awarded by the tribunal.

2. The respondents 1 to 3 / claimants filed the above claim petition under Section 166 of the Motor Vehicles Act read with Rule 3 of the Motor Accident Claims Tribunal Rules seeking compensation of Rs.7,00,000/- for the death of one AG Menon, husband of the first respondent and father of the 2nd and 3rd respondents in a motor accident that took place on 25.07.2005 at about 5.45 p.m. near Ganesh Mahal Police Signal at Omalur Main Road.

3. The case of the respondents 1 to 3/claimants is that on 25.07.2005, at about 5.45 p.m., when the deceased AG Menon was on his usual walk along Omalur Main Road, a speeding

motorcycle bearing registration No. TN-30B-8267 hit him, as a result of which he sustained grievous injuries and that though he was immediately rushed to a nearby hospital, he succumbed to injuries. The further contention of the claimants is that the deceased was aged 77 years on the date of accident and he was a retired Accounts Officer in Tamil Nadu Electricity Board drawing a pension of Rs.7,800/- per month. According to the claimants, the rash and negligent driving of the driver of the motorcycle was the cause of accident and that since the owner of the vehicle(first respondent) insured his vehicle with the appellant, insurance company, both of them are jointly and severally liable to pay compensation to them.

4. The owner of the motorcycle remained absent before the tribunal and therefore, he was set exparte. The present appellant, National Insurance Company Limited contested the claim petition.

5. The learned Principle District Judge/ Motor Accident Claims Tribunal, Salem, after analysing the evidence on record, awarded a compensation of Rs.2,61,500/- together with interest at the rate of 7.5% p.a. to the claimants. Questioning the quantum of compensation awarded by the tribunal, the National Insurance Company Limited, Salem has filed the present appeal.

6. A perusal of the orders passed by the tribunal clearly shows that the tribunal had considered all the aspects before passing the award. In fact, the tribunal had also taken into account the income tax returns filed by the deceased and had correctly arrived at the annual income of the deceased as Rs.67,496/-. The tribunal had also applied proper multiplier, while awarding compensation. By no stretch of imagination, the award passed by the tribunal can be said to be exorbitant. Therefore, the civil miscellaneous Appeal is liable dismissed.

7. In the result, the civil miscellaneous Appeal is dismissed. No costs. The connected miscellaneous petitions are closed. The orders passed in M.C.O.P.No.1424 of 2005 dated 30.01.2009 by the Principal District Judge, Motor Accident Claims Tribunal, Salem is upheld.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mst

To

The Principal District Judge,
Motor Accident Claims Tribunal, Salem.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras. (2 copies)

+1cc to Mr.J.Chandran, Advocate, S.R.No.76463
+1cc to Mr.A.V.Arun, Advocate, S.R.No. 77050

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MP.No.1 of 2009 and 1 of 2010

SPD(CO)
GN(11/11/2019)



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