

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.2832 of 2010 and

M.P.No.1 of 2010

National Insurance Company Limited,
Mallekel Buildings, Main Road,
Irfunjalakkusa, Kerala.

... Appellant/2nd Respondent

Versus

1. Appukkuty

2. A.Velathal

... Respondents/Petitioners

3. P.D.Paulson

... Respondent/1st Respondent

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to set aside the decree and Judgment passed in MACTOP No. 64 of 2003 dated 18.06.2004 on the file of the Motor Vehicle Accident Claims Tribunal, Subordinate Judge, Udumalpet.

For Appellant :Mrs.N.B.Surekha

For Respondent -2 :Mr.M.N.Balakrishnan

R1 & R3 :Not ready Notice

J U D G M E N T

This appeal has been filed to set aside the decree and Judgment passed in MACTOP No. 64 of 2003 dated 18.06.2004 on the file of the Motor Vehicle Accidents Claims Tribunal, Subordinate Judge, Udumalpet.

2. On 21.12.2002 at about 08:15 a.m while the deceased Palanisamy was riding his two wheeler bearing Registration No. TDZ 5873, at Dharapuram Road a lorry bearing Registration No. K-L-E-1150 came in the opposite direction and dashed against the

vehicle of the deceased. The accident occurred due to the negligent act of the driver of the lorry. Hence, the respondents 1 and 2 herein, who are the legal heirs of the deceased have filed M.C.O.P.No. 64 of 2003, before the Motor Vehicle Accidents Claims Tribunal and first Additional Subordinate Judge, Udumalpet, seeking compensation for a sum of Rs.11,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.4,06,000/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. Heard the arguments of counsel for the appellant and perused the materials available on record. Though notice was ordered to the third respondent, the same is yet to be completed for service.

5. As far as the award of compensation is concerned, the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

6. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. Since, the Tribunal is applied its mind properly and granted the award with the correct head which is well considered order.

7. In the result,

(a) this appeal is dismissed and the Judgment and Decree dated 18.06.2004 made in M.C.O.P.No. 64 of 2003, on the file of Motor Vehicles Accidents Claims Tribunal, Subordinate Judge, Udumalpet is hereby confirmed.

(b) the appellant/Insurance company is directed to deposit amount as awarded by the Tribunal with interest at the rate of 7.5%, less the amount already deposited, if any, within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit, the first and second respondent are permitted to withdraw the amount by way of filing proper application before the Tribunal.

(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To.

The Subordinate Judge,
Motor Vehicles Accidents Claims Tribunal,
Udumalpet.

Copy to:

The Section Officer,
V.R Section,
High Court, Madras

+1cc to Mr.M.N.Balakrishnan, Advocate sr.20306

+1cc to Mrs.N.B.Surekha, Advocate sr.20231

C.M.A. No.2832 of 2010 and
M.P.No.1 of 2010

nr 17/06/2019

सत्यमेव जयते
WEB COPY