

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.3131 of 2010

1.Gokilambal
2.Manokaran @ Shanmugam ... Appellants/Petitioners

...Vs...

1.D.Sundaresan
2.The New India Assurance Company Limited,
56/166, D Kovai Main Road,
Annur - 641 653, Tirupur District. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgement dated 30.12.2008 passed in M.C.O.P.No.162 of 2007 on the file of the Motor Accidents Claims Tribunal / Additional District Court, Fast Track Court No.1, Erode.

For Appellants : Mr.Ma.P.Thangavel
For R1 : No appearance
For R2 : Mr.J.Chandran

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.162 of 2007 on the file of the Motor Accidents Claims Tribunal / Additional District Court, Fast Track Court No.1, Erode. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.5,00,000/- for the death of their daughter Rubithra aged eight years, in a road accident on 02.03.2007.

2. The case of the claimants is that on 02.03.2007, the deceased was a pillion rider in a motorcycle bearing Registration No. TN 45 F 4376 ridden by the second claimant on Erode - Muthur main road and at about 08.00 P.M., a speeding lorry bearing Registration No. KA 01 AA 1516 hit them, as a result of which, the deceased fell down and died on the spot. According to the claimants, the accident took place due to rash and negligent driving of the driver of the lorry belonging to the first respondent and that since the said lorry was insured with the second respondent / New India Assurance Company Limited, the owner of the lorry and the

insurer are jointly and severally liable to pay compensation.

3. The first respondent remained absent before the Tribunal and therefore he was set exparte. The second respondent / New India Assurance Company Limited contested the claim petition on all the grounds available to the insurer. The learned Additional District Judge, Fast Track Court No.1 / Motor Accidents Claims Tribunal, Erode, after analysing the evidence on record, awarded a compensation of Rs.1,75,000/- together with interest at the rate of 7.5% per annum to the claimants. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr.Ma.P.Thangavel, learned counsel appearing for the appellants / claimants contended that the compensation of Rs.1,75,000/- awarded by the Tribunal is very meagre.

5. Per contra, Mr.J.Chandran, learned counsel appearing for the second respondent / New India Assurance Company Limited contended that the Tribunal has awarded just compensation of Rs.1,75,000/- to the claimants.

6. No appearance on behalf of the first respondent.

7. In the decision in Kishan Gopal and another Vs. Lala and others (cited supra), the Hon'ble Supreme Court of India has awarded compensation of Rs.5,00,000/- for the death of a boy aged 10 years. By applying the said principles, I am of the view that awarding compensation of Rs.5,00,000/- to the appellants / claimants would meet the ends of justice.

8. In the result,

(i) The Civil Miscellaneous Appeal is allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,75,000/- to Rs.5,00,000/-.

(iii) The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The second respondent / New India Assurance Company Limited is directed to deposit the entire compensation amount i.e., Rs.5,00,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.162 of 2007 on the file of the Motor Accidents Claims Tribunal / Additional District Court, Fast Track Court No.1, Erode, within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the ratio of apportionment made by the Tribunal after following due process of law.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

krk

To

1.The Motor Accidents Claims Tribunal,
The Additional District Judge,
Fast Track Court No.1,
Erode.

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

+1cc to Mr.J.Chandran, Advocate, S.R.No. 95715

+1cc to Mr.Ma.Pa.Thangavel, Advocate, S.R.No. 95069

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NRL (CO)
GN(21/01/2020)

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