

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.3228 of 2010
and M.P.No.1 of 2010

ICICI Lombard Motor Insurance Co.Ltd.,
Represented by its
Branch Manager
Mumbai.

... Appellant

Versus

1. Balamani
2. Thirumoorthy
3. Kavitha
4. Palaniammal
5. Karthikeyan
6. I.P.Malakannan

Respondents 5 and 6

set exparte in the Lower Court ... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.1462 of 2008 dated 01.04.2010, on the file of the learned Principal Sub-Judge/Motor Accidents Claims Tribunal, Tiruppur District.

For Appellant : Mrs.R.Srividya

For Respondents : Mr.MA.P.Thangavel (for R1 to R3)
(R5 & R6 set Exparte)

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal in MCOP No.1462 of 2008 dated 01.04.2010, the appellant / Insurance Company preferred this Civil Miscellaneous Appeal.

2. The facts of the case are as follows:

The respondents 1 to 4 are the legal heirs of the deceased Palaisamy who died on 05.07.2008 at 17.45 hours in the NH 47 road, Kannkkam Playam Privu.

On 05.07.2008 at about 12.45 hours, while the deceased

Palanisamy was riding a bike bearing Registration No.TN-39-H-5936 in Kanakkampalayam Pirivu, NH47 road, a Sumo vehicle bearing registration number TN-40-B-3615 was coming from east to west so rashly and negligently and without adhere the traffic regulations and dashed against a deceased Palanisamy. Due to that accident, the deceased Palanisamy sustained grievous injuries all over the body. Immediately he was taken into Government Hospital, Tiruppur, but his life could not be saved. Therefore, the petitioners/legal heirs of the deceased filed a petition in M.C.O.P.No.1462 of 2008 before the learned Principal Sub-Judge/Motor Accidents Claims Tribunal, Tiruppur District, claiming a sum of Rs.12,00,000/- towards compensation. The Claims Tribunal, on a consideration of oral and documentary evidence, awarded a sum of Rs.5,84,000/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant/Insurance Company is before this Court by way of filing this Civil Miscellaneous Appeal.

4. Heard Mrs.R.Srividya, learned counsel for appellant and Mr.Ma.P. Thangavel, learned counsel for R1 to R3 and perused the materials available on record.

5. Though the appellant/Insurance company has filed this appeal on the ground of negligence as well as quantum of compensation awarded by the Tribunal, this Court is not inclined to interfere with the same since the Tribunal has passed the award based on the oral and documentary evidence produced by both the parties. In fact, the appellant / Insurance has not produced any proper documents denying the claim made by the appellant. Therefore, the learned Tribunal has passed the award amount of Rs.5,84,000/- towards compensation under the following heads:

1. Loss of Income	:	Rs.5,28,000/-
2. Loss of companion ship	:	Rs. 10,000/-
towards first respondent		
3. Pain and sufferings	:	Rs. 40,000/-
(10000 each to respondents		
1 to 4)		
4. Funeral expenses	:	Rs. 5,000/-
5. Transportation	:	Rs. 1,000/-
Total	:	Rs. 5,84,000/-

6. Though the deceased was aged about 55, the Tribunal has applied the multiplier in a proper manner which is not liable to to be interfered by this Court. Now the appellant/Insurance Company cannot raised grounds by saying that the multiplier applied by the Tribunal is not proper. Since, the Appellant

Insurance Company has not produced any single document to disprove the negligence fixed by the Tribunal.

7. It is my absolute view that for the age of 55, the award of Rs.5,84,000/- is very low. In fact, when the respondents/claimants has not filed any appeal for enhancement of the award amount, this Court need not go into the enhancement of the compensation except to confirm the award passed by the Tribunal. The award of compensation has been passed with correct heads. Accordingly, this present appeal is liable to be dismissed by confirming the award passed by the Tribunal.

8. In the result, this Civil Miscellaneous appeal is dismissed by confirming the Fair and Decretal order of the claims Tribunal in M.C.O.P.No.1462 of 2008, dated 01.04.2010.

9. The appellant/Insurance company is directed to deposit the award amount, less the amount if any already deposited along with interest at 7.5% per annum as fixed by the Claims Tribunal within a period of eight weeks from the date of receipt of a copy of this order. After making such deposit, the respondents/claimants are permitted to withdraw the amount by filing appropriate application before the Tribunal.

Consequently, connected miscellaneous petition is closed.
No costs

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To.

1.The Principal Sub-Judge/
Motor Accidents Claims Tribunal,
Tiruppur District.

2.The Section Officer,
VR Section, High Court, Madras-104.

+1cc to M/S.R.Sree Vidhya, Advocate Sr.11947
+1cc to M/S.Ma.P.Thangavel, Advocate Sr.10969

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