



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.325 of 2009

and

M.P.Nos. 1 and 2 of 2009

National Insurance Co. Ltd.,
No.3, Middleton Street, Post Box No. 9229,
Kolkata - 700 071,
At LRN Colony,
Saradha College Main Road,
Salem - 7

... Appellant/3rd Respondent

Versus

1.E. Raja

2. Dhanalakshmi

..Respondents 1 & 2/Petitioner 1 & 2

3. K. Loganathan

..Respondent 3/Respondent 1

4. M. Sakthivel

.. Respondent 4/Respondent 2

(R3 & R4 Set exparte)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.1497 of 2004, dated 06.09.2008 on the file of the Motor Accidents Claims Tribunal, Additional District Special Court for Essential Commodities Act, Salem.

For Appellant

: Mr.N. Vijayaraghavan

For Respondents 1 and 2

: Mr.R. Ezhilarasan

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant against the Judgment and Decree in M.C.O.P.No.1497 of 2004, dated 06.09.2008 on the file of the Motor Accidents Claims Tribunal, Additional District Special Court for Essential Commodities Act, Salem.



2. The facts of the case are as follows:

On 17.06.2004 when the deceased/Murugan was riding his bicycle a lorry bearing Registration No. TN-51-Y-1519 came in the opposite direction in a rash and negligent manner and dashed against the deceased. In the result, the deceased/Murugan died on the spot itself. The accident occurred due to the rash and negligent driving of the driver of the lorry only.

3. Hence, the first and second respondent herein, who are the parents of the deceased, filed M.C.O.P.No.1497 of 2004 on the file of the Motor Accident Claims Tribunal, Additional District, Special Court for Essential Commodities Act, Salem, seeking compensation for a sum of Rs.6,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.4,10,000/- payable with interest at the rate of 7.5% per annum.

4. Aggrieved over the same, the appellant/Insurance Company has come forward with the present appeal.

5. The learned counsel for the appellant/Insurance Company contend that the deceased was a minor child hence, the irresponsible attitude of the parents of the deceased is the cause for the accident. They have not taken proper care towards their child and permitted him to drive the cycle in the National High Way. Hence, he prays that driver of the vehicle is not at negligence and seeks to allow the appeal.

6. Per Contra, the learned counsel for the first and second respondents contend that the award passed by the Tribunal for a person who died in the accident, is not a reasonable one. Hence, prays to enhance the award amount by the Tribunal.

7. Heard both sides.

8. From the perusal of the materials available on record, it is seen that the Tribunal, on the claimant side, examined 2 witnesses and marked 6 exhibits. On the side of the respondents, neither oral nor documentary evidence was adduced.

9. The Tribunal, on the basis of oral evidence of PW-1, assessed that, at the time of accident he was aged about 12 years hence approximately fixed Rs.24,000/- as income and applied multiplier method and arrived Rs.3,60,000/- under the head Loss of Income and Rs.50,000/- for other heads and totally awarded Rs.4,10,000/- as compensation.



10. 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.

11. 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.

12. In the result,

(a) this appeal is dismissed and the Judgment and Decree of the Tribunal in M.C.O.P.No.1497 of 2004, dated 06.09.2008, on the file of Additional District Special Court for Essential Commodities Act, Salem is confirmed.

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

(c) On such deposit the respondents/claimants are permitted to withdraw the amount as per the directions of the Tribunal, by way of filing proper application before the Tribunal.

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

(e) Consequently, connected miscellaneous petition are closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

smn

To

1. The Additional District Judge,
The Motor Accidents Claims Tribunal,
Special Court for Essential Commodities
Act, Salem.



2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1cc to Mr.N. Vijayaraghavan, Advocate SR.No.28073

+1cc to Mr.R. Ezhilarasan, Advocate SR.No.27300

CMA No.325 of 2009
and
M.P.Nos.1 and 2 of 2009

RSV(CO)
GMY(24/09/2019)