



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :28.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA.No.654 of 2009

and

M.P.No. 1 of 2009

National Insurance Co., Ltd
No.751, Anna Salai Chennai -2.

... Appellant

Versus

• 1. Tmt. Mangamma

• 2. V. Thanikachalam

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 28.10.2005 made in M.C.O.P.No. 573 of 2011 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Judge(FTC-IV), Chennai.

For Appellant	: Mr.S. Arun Kumar
For R2	: No Appearance
For R1	: Notice not ready

JUDGMENT

This Civil Miscellaneous Appeal Tribunal has been filed against the award and decree dated 28.10.2005 made in M.C.O.P.No. 573 of 2011 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Judge(FTC-IV), Chennai.

2.The appellant/Insurance company is the second respondent and the first respondents is the claimant in the claim petition before the Tribunal. The claim petition in M.C.O.P.No.573 of 2001 was filed seeking a sum of Rs.3,50,000/- for the death of one Mr.A.C. Sundaram.



3. For the sake of convenience, the parties are referred to as per their litigative status in the claim petition.

4. According to the petitioner, the deceased Sundaram was her son and he has been working as a cook and earning a sum of Rs.4,000/- per month. On 14.11.1999 at about 06.02 pm, when the deceased while crossing E.V.R. Salai near G.S.T. Road, a vehicle bearing Registration No: T-N-22-T-9929 came in the opposite direction and dashed against the deceased. In the result he sustained fatal injuries and died in the spot itself. Hence, the claimant filed the above said claim petition before the Tribunal.

5. Before the Tribunal, on behalf of the deceased, his mother/ the claimant was examined as PW.1 and one Dr.N.Kumar examined as PW.2. and one Thiru.P.Shanmugam was examined as P.W.3. There were eight documents marked as Ex's.P1 to P6 . On the respondents side, neither documents nor exhibits were marked.

Petitioner side exhibits:
Ex.P1. Copy of the FIR,
Ex.P2. Model Sketch
Ex.P3. Post Mortem Report
Ex.P4. Death Certificate
Ex.P5. Legal Heir Certificate
Ex.P6. Salary Certificate

6. The Tribunal, on the basis of above oral and documentary evidence awarded compensation under the following heads:

S.No	Particulars	Amount
1	Loss of Earnings	Rs.2,88,000/-
2	Funeral Expenses	Rs.2,000/-
	Total	Rs.2,90,000/-

7. Aggrieved over the same, the insurance company has preferred this appeal.

8. The learned counsel for the appellant/Insurance company contend that the deceased was not died due to the accident and the age, occupation and income of the deceased are false. Hence, prays to allow this appeal.

9. The learned counsel for the respondent contend that the deceased is the sole bread winner of the family and further contend that the award passed by the Tribunal is a reasonable one for a dead person. Hence, prays to dismiss this appeal.



10. Heard both sides and 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 excessive. Since, the Tribunal is applied its mind properly and granted the fair and reasonable award.

11. In the result,

(a) this appeal is dismissed and the Judgment and Decree of the Tribunal in M.C.O.P.No.573 of 2001, dated 28.10.2005, on the file of Additional District and Sessions Judge, (FTC-IV), Chennai 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 respondent/claimant is permitted to withdraw and disburse the amount as per the directions of the Tribunal, 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(CS VIII)

//True Copy//

Sub Assistant Registrar

smn

To

1.The Motor Accident Claims Tribunal
Additional and District Judge, Chennai-1



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

+1cc to Mr.S. Arun Kumar, Advocate sr.30606.

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pp(co)
nr 10/12/2019