

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.752 of 2009

and

M.P.No.1 of 2009

National Insurance Co.Ltd,
Represented by its Divisional Manager,
Division No.10,
Flat No.101 - 106, N-1 BMC House,
Connaught Place,
New Delhi - 110 001.Appellant/2nd Respondent

Vs

1.G.S.Jamuna Rani
2.G.K.Suresh Babu
3.G.S.BharathiRespondents 1 to 3/Petitioner

4.M/s.Dr.G.R.Damodaran College
of Science,
Civil Aerodrome Post,
Avanashi Road,
Coimbatore.4th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgement and decree dated 11.06.2008 passed in M.C.O.P.No.745 of 2005, on the file of Motor Accident Claims Tribunal, Additional District Court, Krishnagiri.

For Appellant : Mr.S.Vadivel
For R4 : No Appearance

J U D G M E N T

The facts of the case in brief, are as follows:

On 10.01.2005, at about 20.15 hours, the deceased Balaji was riding his Honda Unicorn motorcycle bearing Reg.No.TN-24-Z-6898 on Avinasi Road, Coimbatore. When he reached in front of CIT College, the Maruthi Car bearing Reg.No.TN-38-W-5701 belonging to the 4th respondent herein and insured with the appellant Insurance Company, came from the opposite direction in a rash and negligent manner and dashed against the motorcycle. Due to

the said impact, the deceased sustained grievous injuries. He was taken to Kovai Medical Center and Hospital and in spite of best treatment given, he succumbed to the injuries in the hospital. The legal representatives of the deceased filed a claim petition for compensation. Considering the materials and evidence, the Tribunal has awarded a sum of Rs.3,35,000/- as total compensation, against which, this appeal is preferred by the appellant/ Insurance Company.

2.Heard the learned counsel for the appellant/Insurance Company. Though this appeal was admitted way back in the year 2009, the appellant has not taken proper steps to serve papers on the respondents/claimants even at this length of time. However, due to efflux of time, this appeal is taken up for final disposal on merits.

3.The learned counsel for the appellant/Insurance Company has submitted that the Tribunal has failed to consider Ex.A1/FIR and Ex.A3/Insurance policy in a proper perspective, which fixing the negligence on the part of the driver of the car. He further submitted that in any event the award passed at Rs.3,35,000/- is on the higher side.

4.The Tribunal, taking note of the evidence of the P.W.2, eye witness to the accident along with Ex.A1-First Information Report and Ex.B1-Observation Mahazar, came to the conclusion that the driver of the 4th respondent's vehicle was at fault. Further, the Tribunal has analysed the evidence of P.W.1-mother of the deceased and P.W.2 along with Ex.B2-Rough Sketch and held that the accident would have been averted, if the Maruthi Car driver was careful and vigilant enough in his driving. Considering the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the car, which factual finding this Court is not inclined to interfere.

5.With regard to the quantum of compensation, since the deceased was a student, the Tribunal has fixed a sum of Rs.15,000/- as notional income, placing reliance on the case reported in 2004 (2) TN MAC 262 (SC) [Manju Devi and another Vs. Musafir Paswan and another]. Thereafter, applying the multiplier of '15', the Tribunal has arrived at the loss of income at Rs.2,25,000/- (Rs.15,000/- x 15). The Tribunal has awarded a sum of Rs.50,000/- (Rs.15,000/- + Rs.15,000/- + Rs.20,000/-) towards loss of love and affection, Rs.50,000/- towards future loss of income, Rs.10,000/- towards transportation and funeral expenses. This Court is of the view that the total compensation arrived at by the Tribunal under each and every head is very reasonable and hence the same is hereby confirmed.

6.In the result, the Civil Miscellaneous Appeal is dismissed. Consequently, the connected miscellaneous petition is closed. No costs. The appellant / Insurance Company is directed to deposit the compensation amount, as awarded by the Claims Tribunal, along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants / respondents 1 to 3 are permitted to withdraw their respective shares, as apportioned by the Tribunal, on making proper application.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Additional District Judge,
Motor Accident Claims Tribunal,
Krishnagiri.

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

+1 cc to Mr.S.Vadivel, Advocate,sr.63571

mp(co)
krd 16/9

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