IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.880 of 2009
and
M.P.No.1 of 2009

United India Insurance Co. Ltd.
Kanchipuram. .. Appellant

Vs.

1.Muniammal
2.Ellappan
3.Rama
4.Ramesh
5.Narashimha Chettiar
6.Raman
7.V.Vijaya
8. National Insurance Co. Ltd.,
Gandhi Road, Kanchipuram.
(Respondents 6 to 8 are not necessary parties and they may be given up) .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 08.10.2002 made in M.A.C.T.O.P.No.129 of 1999 on the file of the Motor Accident Claims Tribunal, Cheyyar, (Sub-Court, Cheyyar).

For Appellant : Mr.J.Vijayaraghavan

For R1 & R2 : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the appellant / Insurance Company against the award dated 08.10.2002 passed by the Motor Accident Claims Tribunal, (Sub-Court) Cheyyar, in M.A.C.T. O.P.No.129 of 1999, whereunder and whereby, the Tribunal has awarded a total compensation of Rs.3,50,000/- as against the claim of Rs.4,00,000/- to the respondents 1 to 3/ claimants, for the death of one Ravi in a motor vehicle accident, the details of which read thus:

Sl. No.	Heads	Amount awarded by Tribunal (Rs.)
1.	Loss of Income	2,29,500/-
2.	Funeral Expenses	10,000/-
3.	Love & Affection for mother	25,000/-
4.	Love & Affection for father	25,000/-
5.	Love & Affection for wife	50,000/-
6.	Consortium	10,500/-
	Total	Rs.3,50,000/-

2.The learned counsel for the appellant insurance company has only disputed the quantum of compensation awarded by the Tribunal, contending that in the absence of any document to prove the age and income of the deceased, the Tribunal ought not to have adopted the multiplier of 17, while determining the compensation under the head "loss of dependency". He further submitted that the compensation of Rs.3,50,000/- awarded by the Tribunal is excessive and exorbitant and the same has to be reduced.

3.Despite the service of notice and the name of the respondents 1 and 2 having been printed in the cause list, there is no representation on their behalf. The appellant insurance company has not taken proper steps to serve notice on the other respondents, even at this length of time. However, considering the fact that the appeal is pending from the year 2009, this Court is inclined to proceed with the same on merits.

4.There is no dispute with regard to the liability of the appellant insurance company to pay compensation to the respondents/claimants.

5.As regards the quantum of compensation, the mother of the deceased was examined as P.W.1, who stated in her cross examination that the deceased was aged about 24 years. Whereas, in the claim petition, Ex.P1 FIR and Ex.P2-post mortem certificate, the age of the deceased was stated to be 25 years. Further, according to the respondents/claimants, the income earned by the deceased was Rs.4,000/- per month. However, no authenticated document was marked to substantiate the same. Considering those oral and documentary evidence, the Tribunal has fixed a nominal sum of Rs.50/- per day and determined the monthly income at Rs.1,500/- and annual income at Rs.18,000/-. Thereafter, the Tribunal has deducted Rs.4,500/- towards the personal expenses of the deceased, adopted the multiplier of 17, as per II Schedule of the Motor Vehicles Act and quantified the compensation under the head “loss of dependency” at Rs.2,29,500/- [(18,000 – 4,500) x 17], which this Court is not inclined to interfere, as the same is based on the settled proposition of law and the relevant provisions of the Motor Vehicles Act.

6.That apart, the Tribunal has awarded Rs.10,000/- towards funeral expenses and transportation charges, Rs.25,000/- each towards loss of love and affection to the respondents 1 and 2/parents, Rs.50,000/- towards loss of love and affection and Rs.10,500/- towards loss of consortium to the third respondent/wife. Having regard to the facts and circumstances of the case, the amount so quantified by the Tribunal are fair, just and reasonable and hence, the same warrant no interference at the hands of this Court. However, the rate of interest at 9% awarded by the Tribunal seems to be on the higher side and the same is hereby reduced to 7.5%p.a.

7.In the result, this appeal is Partly Allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

8.The appellant-Insurance Company is directed to deposit the compensation as awarded by the Tribunal, with interest at 7.5% 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 Tribunal shall transfer the same to the respective Savings Bank Account of the respondents/claimants 1 to 3, as per the ratio of apportionment made by the Tribunal through RTGS within a period of one week thereafter.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

gv/rk

To
The Sub-Court,
Motor Accident Claims Tribunal,
Cheyyar

Copy To: The Section Officer,
VR Section, High Court, Madras.

C.M.A.No.880 of 2009

GP(CO)
GMY(07/01/2020)