

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1023 of 2012

and

M.P.No.1 of 2012

The Branch Manger,
M/s Royal Sundaram Alliance Insurance Co., Ltd.,
No.4-A, IV Floor, Thirumalai Towers,
No.723, Avanasi Road,
Coimbatore - 641 018. ... Appellant/2nd Respondent

Versus

1.Lissy Antony
2.P.P. Antony
3.Raimole Antony ... Respondents 1 to 3/Claimants
4.N. Varathappan
5.Mr. Abdul Rasheed
6.M/s. United India Insurance Co, Ltd.,
Municipal Buildings,
Main Road, North Paravoor,
Kerala ... Respondents/Respondents 1,3 and 4
(Respondents 4 & 5 ex-parte in Lower Court)

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.104 of 2009, dated 16.09.2011 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri.

For Appellant : Mr. N. Vijayaraghavan

For Respondents 1 to 3 : Mr. V. Niranjan

For Respondents 4 and 5 : Ex-Parte

For Respondent 6 : No Appearance

JUDGMENT

This Civil Miscellaneous Petition has been filed by the appellant against the Judgment and Decree in M.C.O.P.No.104 of 2009, dated 06.09.2011 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri.

2.The facts of the case are as follows:

On 29.04.2008 at about 1:30 hrs when the deceased Rebin was proceeding towards his native place from Bangalore in Marthi Esteem LX car bearing Registration No:K.L.AV 8663 a lorry bearing Registration No. K.A.I.B.8742 came in the opposite direction and dashed against the car. In the result, the deceased Rebin sustained fatal injuries and died on the spot itself. Hence, the 1st and 2nd respondent who are the parents of the deceased and the sister of the deceased who is the 3rd respondent herein, filed M.C.O.P.No.104 of 2009, on the file of the Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri, seeking compensation for a sum of Rs.15,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.7,56,000/- payable with interest at the rate of 7.5% per annum. It is also seen that the Kaveripattinam Police has registered a case against the driver of the lorry in crime No.445 of 2008 U/sec.279,337,338 and 304(A) I.P.C

3. Before the Tribunal, on the side of the appellant examined 2 witnesses and 10 exhibits were marked. Mother of the deceased examined herself as P.W-1 and one Sijo Jose was examined as PW-2.

Appellants Side Exhibits:

- Ex.P1.Copy of the FIR, dated 30.04.2008
- Ex.P2. Copy of Postmortem Certificate
- Ex.P3. Copy of Insurance Policy of 1st respondent
- Ex.P4. Copy of Driving License of Lorry Driver
- Ex.P5. Salary slip of deceased
- Ex.P6. Legal Heir Certificate
- Ex.P7. Ambulance Bill
- Ex.P8. Daily permit card
- Ex.P9. Driving license of Car Driver
- Ex.P10 Payment of Final settlement bill of deceased.

On the side of the respondents, neither oral nor documentary evidence was adduced.

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

S.No	Particulars	Amount
1	For loss of dependency	Rs.7,14,000/-
2	Loss of Love and affection	Rs.30,000/-
3	Transportation	Rs.7,000/-
4	Funeral Expenses	Rs.5,000/-
	Total	Rs.7,56,000/-

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

6. The learned counsel for the appellant/Insurance company contend that the driver of the alleged vehicle does not possess valid driving license at the time of the accident and the age, occupation and income of the deceased are false. Hence, prays to allow this appeal.

7. The learned counsel for the respondents 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.

8. Heard both sides. 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.

9. In the result, सत्यमेव जयते

(a) this appeal is dismissed and the Judgment and Decree of the Tribunal in M.C.O.P.No.104 of 2009, dated 16.09.2011, on the file of Additional District Judge, Krishnagiri 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 and disburse 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 is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

smn

To

1. The Motor Accidents Claims Tribunal,
Additional District Judge,
Krishnagiri.
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1cc to Mr.N.Vijayaraghavan, Advocate SR.No.31200

CMA No.1023 of 2012
and
M.P.No.1 of 2012

AK (CO)
GMY (17/06/2019)

सत्यमेव जयते

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