

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.216 of 2011
and
M.P.No.1 of 2011

M/s.National Insurance Company Limited,
Kumbakonam - 612 001 ... Appellant/R2

Vs.

1.Thiru.Chellamuthu
2.Tmt.Thilakavathi
3.Miss.Kalaiselvi ...RR1 to R3/Petitioners
4.Tmt.Sathya ...R4/R3

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 19.07.2010 passed in M.C.O.P.No.183 of 2003 on the file of the Motor Accidents Claims Tribunal (Additional District and Sessions Judge F.T.C II) of Dharapuram at Erode District.

For Appellant : Mr.J.Chandran

For R1 : Died

For R2&R3 : Mr.V.Regunathan

For R4 :Not ready in notice

JUDGMENT

The 2nd respondent before the Tribunal, is the appellant herein. This Civil Miscellaneous Appeal has been filed against the Order and Decree dated 19.07.2010 passed in M.C.O.P.No.183 of 2003 on the file of the Motor Accidents Claims Tribunal (Additional District and Sessions Judge F.T.C II) of Dharapuram at Erode District.

2. The respondents, who are the parents and the sister of the deceased, have preferred the M.C.O.P. as claimants before the Tribunal claiming compensation for the death of Senthilkumar.

3. The brief facts of this case are that on 12.03.2003 at about 13.00 hours, the deceased Senthilkumar was riding M-80 vehicle, bearing Registration No.TN 33 V 3849 along with one pillion rider from West to East on the Northern extremity of Kovai to Kangayam road, with due care and caution. When the said M-80 vehicle was nearing the Omsakthi Vithiyasalai, a lorry bearing Registration number TN 28 7995 owned by the husband of the fourth respondent herein and insured with the appellant/2nd respondent, was driven by one Seetharaman in a rash and negligent manner and it came from West to East with high speed without observing Road Rules and norms and hit against the back of the said M-80 vehicle and the deceased was thrown out and he sustained multiple head and grievous injuries and succumbed to death on the spot.

4. The Tribunal took into consideration the evidence of P.W.1 and P.W.2 and Exhibits P-1 to P-15 and awarded a sum of Rs.5 lakhs as compensation.

5. The learned counsel for the appellant/Insurance Company submitted that the deduction in respect of the income was wrongly calculated by the Tribunal and in respect of all the other heads, the compensation was sufficiently granted by the Tribunal.

6. Learned counsel for the respondents 2 and 3 submitted that the first respondent is the father of the deceased and he died pending this appeal before this Court. Since the respondents 2 and 3 are already on record, they are recorded as legal representatives of the deceased first respondent, they being the wife and daughter of the deceased first respondent.

7. After going through the evidence on record, the rash and negligent driving on the part of the driver of the vehicle of the husband of the fourth respondent herein, is to be confirmed and accordingly it is confirmed.

8. As far as the quantum of compensation arrived at by the Tribunal, it is seen that though the Tribunal had deducted 1/3 towards personal expenses, on appreciation of the evidence based on facts and also taking into consideration the future prospects and adopting deduction of 1/3 instead 50%, and on re-assessment of the same, it appears that the compensation as such granted, need not be disturbed. Accordingly, the quantum of compensation awarded by the Tribunal is hereby confirmed.

9. For the reasons stated above, the appeal is dismissed. The amount, if any yet to be deposited by the appellant, shall be deposited within a period of eight weeks from the date of receipt of a copy of this order.

The respondents 2 and 3 are permitted to withdraw the amount already deposited and in respect of the share of the compensation of the deceased first respondent, since the second respondent and third respondent are the wife and daughter of the first respondent, the share in the award of the deceased first respondent shall be equally shared by the respondents 2 and 3, and as such, they are also permitted to withdraw such amount. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

To

1. The Motor Accidents Claims Tribunal
(Additional District and Sessions Judge F.T.C II) of Dharapuram
at Erode District.

2 The Section Officer
VR Section, High court, Madras 104.

+1 CC to Mr.V.Regunathan, Advocate sr 15786

C.M.A.No.216 of 2011 and
M.P.No.1 of 2011

EV (CO)
SP (08/06/2019)

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