

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2020 of 2015

The New India Assurance Company Ltd
C.D.U IX Apartments
No.68, Purasaiwalkam
Chennai-600 007. .. Appellant/2nd Respondent

Vs.

1.Alamelu
2.Dhanam
3.Amudha
4.Venkatesan .. Respondents/ Petitioners
5.M/s. BPCPL Infrastructure Ltd.
Nookan Palayam Village
Perumbakkam Road
Chitalapakam post
Chennai-600 073 .. Respondents/ 1st Respondent
(R5 remained exparte before the Tribunal)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 10.11.2014 made in M.C.O.P.No.5052 of 2012 on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

For appellant : Mr.R.Neethi Perumal

For RR1 to 4 : Mr.Ayyathurai for
Mr.N.M.Muthu Rajan

For R5 : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against award dated 10.11.2014 made in M.C.O.P.No.5052 of 2012 on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

2.The appellant-Insurance Company is the 2nd respondent in M.C.O.P.No.5052 of 2012, on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai. The respondents 1 to 4 filed the said claim petition, claiming a sum of Rs.8,00,000/- as compensation for the death of one Subramani, father of the respondents 1 to 4 who died in the accident that took place on 18.08.2012.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the car belonging to the 5th respondent and directed the appellant-Insurance Company to pay a sum of Rs.7,51,500/- as compensation to the respondents 1 to 4.

4.Challenging the said award dated 10.11.2014 made in M.C.O.P.No.5052 of 2012, the appellant-Insurance Company has come out with the present appeal.

5.Though the appellant has raised grounds of appeal with regard to negligence, at the time of hearing, the appellant has restricted his arguments with regard to quantum of compensation and contended that the deceased was 60 years at the time of accident and respondents 1 to 4 are not dependents of the deceased and the Tribunal erred in awarding compensation to the respondents 1 to 4. The compensation awarded by the Tribunal under different heads are excessive and prayed for reducing the same.

6.Per contra, the learned counsel appearing for the respondents 1 to 4 contended that the deceased was working as a mason and earning a sum of Rs.600/- per day. The Tribunal erred in fixing notional income of the deceased at Rs.6,500/- per month. The amounts awarded by the Tribunal under different heads are meagre and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant-Insurance Company as well as the respondents 1 to 4 and perused the materials available on record.

8.From the materials on record, it is seen that the respondents 1 to 4 have claimed that the deceased was a mason and was earning a sum of Rs.600/- per day. They have not produced any materials to substantiate the said contention. In the absence of any materials to prove the avocation of the deceased, the Tribunal has fixed a sum of Rs.6,500/- per month as the notional income of the

deceased. The respondents 1 to 4 are daughters and son of the deceased. The appellant has not let in any evidence to show that the respondents 1 to 4 are not legal heirs and dependents of the deceased. The Tribunal deducted 1/4th towards personal expenses, as there are four claimants. As per the postmortem report, the Tribunal fixed the age of the deceased at 60 and applied the multiplier of '9' and awarded compensation. The amounts awarded by the Tribunal under different heads are not excessive. There is no reason warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.7,51,500/- awarded by the Tribunal as compensation to the respondents 1 to 4/claimants is confirmed. The appellant-Insurance Company is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 to 4/claimants are directed to withdraw the award amount as per the ratio of apportionment fixed by the Tribunal, along with interest and costs, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gbi/gsa
To

The Judge,
IV Small Causes Court,
The Motor Accidents Claims Tribunal,
Chennai.

2. The section officer,
VR Section,
High court, Madras

+1cc to Mr.R.Neethi Perumal , Advocate SR.No. 6848

+1cc to Mr.M.Muthu Rajan , Advocate SR.No. 6736

C.M.A.No.2020 of 2015

A.SK(15/03/2019)