

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.315 of 2019
and C.M.P.No.1108 of 2019

The United India Insurance Co., Ltd.,
No.12-A, Kovai Road,
PLA Buildings, II Floor,
Karur.

... Appellant /3rd Respondent

Vs.

1.Sasammal
2.Siva Sakthi
3.Geetha
4.Rangammal ... Respondents/1 to 4 Petitioners
5.Vellingiri
6.V.Selladurai
7.Cholamandalam MS General Insurance Co., Ltd.,
No.551-D.B.Road,
R.S.Puram, Coimbatore.
8.Thamarai Selvi
(R5 & R6 were set exparte before the Tribunal)

.. Respondents 1, 2, 4 & 5/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 21.02.2008, made in M.C.O.P.No.127 of 2004, on the file of the Motor Accidents Claims Tribunal, Sub Court, Pollachi.

For Appellant : Mr.N.Vijayaraghavan
for M/s.M.B.Gopalan Associates

For R1 to R4 : M/s.T.P.Manoharan

R5 & R6 : Exparte before Tribunal
R7 : Not ready in notice

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-Insurance Company, challenging the award dated 21.02.2008, made in M.C.O.P.No.127 of 2004, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Pollachi.

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

3.The appellant-Insurance Company is the 3rd respondent in M.C.O.P.No.127 of 2004, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Pollachi. The respondents 1 to 4 filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of one K.Murugasamy, who died in the accident that took place on 31.07.2003. The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the 5th respondent, driver of the van belonging to the 6th respondent and directed the respondents 5, 6 as well as the appellant to pay a sum of Rs.6,22,500/- jointly and severally as compensation to the respondents 1 to 4. Challenging the said award dated 21.02.2008, made in M.C.O.P.No.127 of 2004, the appellant-Insurance Company has come out with the present appeal.

4.The contention of the learned counsel appearing for the appellants is that the Tribunal erred in holding that the deceased died due to the injuries sustained in the accident and awarded compensation for the death. The Tribunal failed to take note of the fact that the deceased died after 6 ½ years of the accident. In any event, the amounts awarded by the Tribunal for the death under different heads are excessive. These contentions are contrary to the entire materials on record. P.W.3-Chief Doctor in K.G. Hospital, Coimbatore who treated the victim deposed that at the time of treatment, the victim did not suffer from any other ailment, except the injuries sustained in the accident. The Doctor has deposed that the death was due to the injuries suffered by him in the accident. The Tribunal considering the evidence of P.W.3 and other materials on record, held that the death was only due to the injuries sustained by him in the accident and considering the age and avocation of the deceased, awarded compensation, which does not warrant any interference by this Court.

5. Accordingly, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.6,22,500/- awarded by the Tribunal as compensation to the respondents 1 to 4/claimants is confirmed. The appellant-Insurance Company as well as the respondents 5 and 6 are jointly and severally 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 their shares of the award amount, along with interest and costs, as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Subordinate Judge,
(Motor Accidents Claims Tribunal),
Pollachi.

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

+1cc to Mr.M.B.Gopalan, Advocate sr.73409

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gj (co)
nr 03/06/2019

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