

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.339 of 2019

and

C.M.P.No.1233 of 2019

M/s.The United India Insurance
Company Ltd.

235, Gandhi Road, Arani. .. Appellant /2nd Respondent

Vs.

1.Mohanlal

2.Subhash Chand

3.P.Srinivasan

..3rd Respondent/1st and 2nd Respondents/
Petitioners/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 05.03.2003 made in M.C.O.P.No.260 of 2002, on the file of Motor Accidents Claims Tribunal, (Fast Track Court), Kallakurichi.

For Appellant : M/s.N.Mala

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 05.03.2003 made in M.C.O.P.No.260 of 2002, on the file of Motor Accidents Claims Tribunal, (Fast Track Court) at Kallakurichi.

2.Heard the learned counsel appearing for the appellant and perused the materials available on record.

3.The appellant-Insurance Company is 2nd respondent in M.C.O.P.No.260 of 2002, on the file of the Motor Accidents Claims Tribunal, (Fast Track Court) at Kallakurichi. The respondents 1 and 2 filed the said claim petition, claiming a sum of Rs.5,00,000/- as compensation for the death of one Siva, who died in the accident that took place on 29.06.1999. 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 bus belonging to the

third respondent and directed the appellant-Insurance Company to pay a sum of Rs.2,75,000/- as compensation to the respondents/claimants 1 and 2. Challenging the said award dated 05.03.2003 made in M.C.O.P.No.260 of 2002 granting compensation to the respondents/claimants 1 and 2, the appellant-Insurance Company has come out with the present appeal.

4.The learned counsel appearing for the appellant-Insurance Company contended that the Tribunal erred in holding that the respondents 1 and 2 are brothers and dependants of the deceased and failed to see that the respondents 1 and 2 are also working in the same company and earning independent income. The multiplier of 15 applied by the Tribunal is not correct. From the award of the Tribunal it is seen that the contentions made by the appellant are without merits. The respondents 1 and 2 have let in evidence to show that they are brothers of the deceased and their parents pre-deceased the deceased. The Tribunal considering the salary certificate, age of the deceased as per the postmortem report, fixed the notional income of the deceased at Rs.3,000/- and after deducting 50% towards personal expenses of the deceased as the deceased was a bachelor, applying multiplier 15 awarded compensation towards loss of income which is not excessive. The amounts awarded by the Tribunal under other heads are also not excessive. The Tribunal has given valid reason for granting compensation to the respondents 1 and 2.

5.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.2,75,000/- awarded by the Tribunal as compensation to the respondents/claimants 1 and 2, along with interest and costs 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 to the credit of M.C.O.P.No.260 of 2002. On such deposit, the first and second respondents/claimants are directed to withdraw their respective 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. Consequently, connected Miscellaneous Petition is closed.

gbi/krk

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Judge,
Motor Accidents Claims Tribunal,
(Fast Track Court),
Kallakurichi.

Copy to:-

The Record Keeper,
V.R.Section,
High Court, Madras - 104.

C.M.A.No.339 of 2019
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Kak(12/06/2019)



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