

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2019

CORAM :

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

CMA.No.325 of 2012

and

MP.No.1 of 2012

The Divisional Manager,
M/s.United India Insurance Co.Ltd.,
Nethaji Road, Manjakuppam,
Cuddalore - 607 001. ..Appellant/2nd Respondent

Vs.

1.Vijayalakshmi
2.Sathishkumar
3.Sivaganesh
4.Azhagar

5.Padma ..Respondents 1 to 5/Petitioners

6.Vijayabalan ..6th Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 09.08.2011 made in M.C.O.P.No.1565 of 2008 on the file of the Motor Accident Claims Tribunal (Principal District -Judge), Cuddalore District.

For Appellant : Mr.J.Chandran

For Respondents : Mr.S.Kalyanaraman (for R1 to R5)

: No appearance - R6

: Mr.S.Manohar (for R7)

J U D G M E N T

The Insurance company is the appellant herein. The legal heirs of the deceased Krishnamoorthy preferred the claim petition in MCOP.No.1565 of 2008 alleging that he was working as Wireman in the TNEB department aged 48 years and earning Rs.12,000/- per month.

2.The case of the respondents 1 to 5/claimants is that on 03.02.2008, at about 6.30 pm, when the deceased Krishnamoorthy was riding his TVS XL moped bearing Regn.No.TN-31-C-4681 from Semmandalam to Kondur on Nellikuppam Main Road from east to west

direction with moderate speed by keeping extreme left side of the road, at the time, a 407 TATA van bearing Regn.No.51-S-5888 coming in the opposite direction in a rash and negligent manner, hit against the deceased moped, due to the impact, he sustained fatal injuries. Immediately, he was admitted at Government Head Quarters Hospital, Cuddalore thereafter, he was taken to the Government General Hospital, Pondicherry, where he was treated as an in-patient on 04.02.2008 to 05.02.2008. Therefore, the legal heirs of the deceased filed the claim petition, claiming a sum of Rs.20,00,000/- as compensation for the death of Krishnamoorthy.

3.The Insurance company resisted the claim petition by disputing the age, income and other details furnished by the claimants in the claim petition and prayed for dismissal of the claim petition.

4.Before the Tribunal, on the side of the claimants, three witnesses were examined as PW.1 to PW.3 and fourteen documents from Ex.P1 to P14 were marked. On the side of the respondents, neither oral or documentary evidence was adduced.

5.On the point of quantum, I have heard both counsel for the respective parties and perused the materials on record and the award of the Tribunal.

6.It is not in dispute that the deceased travelled in a TVS Moped bearing Reg.No.TN-31-C-4681 and the first respondent's vehicle 407 TATA bearing Reg.No.TN-51-S-5888, which was insured with the appellant/Insurance company. After going through the evidence of PW.2, ocular witness and also Ex.P1/FIR, Ex.P7/RC book the TATA van and Ex.P8/Driving licence of the van driver, this Court is of the considered view that the rash and negligence fixed on the part of the driver of the van is hereby confirmed and does not warrant any interference.

7.Taking into consideration of Ex.P12/Salary certificate of the deceased, which was issued by the Superintendent Engineer of TNEB department. The Tribunal has rightly come to the conclusion and fixed the monthly income of the deceased and adopted proper multiplier method ratio as per the oft-quoted Judgment in Sarla verma case.

8.The award on all other heads also does not warrant any interference, as the amount is not exorbitant nor excessive. Hence, the award of the Tribunal is hereby confirmed and the appeal is dismissed.

9.It is represented by the learned counsel for the appellant that a sum of Rs.12,00,000/- has been deposited, pursuant to the interim order. Hence, this Court directs the Insurance company to deposit the balance award amount, within a period of eight weeks from the date of receipt of copy of this Judgment. On such deposit, the claimants are permitted to withdraw their share amount. The proportionate share amount as before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal
(Principal District -Judge), Cuddalore District.

Copy to : The Section Officer, V.R. Section,
High Court, Madras - 104.

+1 cc to M/s.J.Chandran,Advocate Sr.No. 40028

+1 cc to M/s.S.Manohar,Advocate Sr.No. 40093

+1 cc to M/s.S.Kalyanaraman, Advocate SR.No.39854

AKM/05.11.19/3P-6C /

CMA.No.325 of 2012
and
MP.No.1 of 2012

WEB COPY