

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2551 of 2006

United India Insurance Co. Ltd.,
rep. by its Divisional Manager,
No.38, Anna Salai,
3rd Floor, Chennai - 600 002.

....Appellant/2nd Respondent

.Vs.

1.Mrs.Pachiammal

2.Minor Gunasekaran

3.Minor Ganapathy

4.Mrs.Govindammal

5.Mariappan

.... 1 to 5 Respondents/Claimants

6.Baby Arjunan

.... 6th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 18.11.2005 in M.C.O.P.No.204 of 2003 on the file of the Motor Accidents Claims Tribunal, Sub Court, Madurantakam.

For Appellant : Mr.S.Udayakumar

For Respondents : R1-died
No appearance for R2, R3, R4 & R6
Mr.R.Murali for R5

JUDGMENT

The appellant, United India Insurance Company Limited, has filed the present appeal questioning the quantum of compensation awarded by the Tribunal in M.C.O.P.No.204 of 2003 on the file of the Motor Accident Claims Tribunal, Sub Court, Madurantakam.

The respondents filed the said claim petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.5,00,000/- for the death of one Amulraj, husband of the first claimant, father of the claimants 2 and 3 and son of the claimants 4 and 5 in a road accident on 07.03.2003.

2. The case of the claimants is that on 07.03.2003, the deceased Amulraj was riding his Bajaj M.80 bearing Registration No.TN 22 3914 along Madurantakam Bye Pass Road and at about 04.30 p.m, a speeding car bearing Registration No.TN 07 P 7261 belonging to the sixth respondent and insured with the present appellant, hit his two wheeler, as a result of which, he was thrown out and died on the spot.

3. According to the claimant, the rash and negligent driving of the driver of the car bearing Registration No.TN 07 P 7261 belonging to the sixth respondent was the cause of the accident and that since the said car was insured with the present appellant, both the owner and the insurer of the car are jointly and severally liable to pay compensation.

4. The owner of the car remained absent before the Tribunal and therefore, she was set ex-parte. The appellant contested the claim petition. The learned Motor Accident Claims Tribunal / Sub Court, Madurantakam after analysing the evidence on record, awarded a compensation of Rs.3,10,000/- together with interest at the rate of 9% per annum to the claimant. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. A perusal of the orders passed by the Tribunal shows that the Tribunal has fixed the notional monthly income of the deceased at Rs.2,250/-, since no proof of income was adduced by the claimants and after deducting 1/3rd towards his personal expenses, the annual income of the deceased is taken up as Rs.18,000/- for the purpose of calculating the loss of dependency. In the postmortem certificate, the age of the deceased is mentioned as 30 years, and therefore the Tribunal fixed the age of the deceased as 30 and adopted multiplier 17. In the circumstances, the Award passed by the Tribunal cannot be said to be exorbitant and therefore the appeal fails and is dismissed.

6. In the result,

- (i) The Civil Miscellaneous Appeal is dismissed. No costs.
- (ii) The appellant, United India Insurance Company Limited, is directed to deposit the compensation amount i.e., Rs.3,10,000/- (less the amount already deposited) together with interest at the rate of 9% per annum from the date of claim

petition till the date of deposit to the credit of M.C.O.P.No.204 of 2003 on the file of the Motor Accidents Claims Tribunal, Sub Court, Madurantakam within a period of four weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made, the claimants are at liberty to withdraw the same as per the order passed by the Tribunal after following due process of law. The ratio of apportionment granted by the Tribunal shall be kept intact.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
The Subordinate Judge,
Madurantakam.

2.The Section Officer,
VR Section, High Court, Madras.

+1cc to M/s.S.Udayakumar, Advocate Sr.85985

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srg 04/06/2020

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