

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CMA.NO.755 OF 2014

AND

MP.NO.1 OF 2014

United India Insurance Co. Ltd.,
178, Dr.Nanjappa road,
First floor,
Coimbatore - 641 018. ... Appellant/3rd Respondent

vs.

1.K.Radha ... 1st Respondent/1st Petitioner
2.B.Swaruba Rani ... 2nd Respondent/2nd Petitioner
3.T.P.Rajkumar ... 3rd Respondent/1st Respondent
4.S.Rajagopal ... 4th Respondent/2nd Respondent

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 12.06.2012 passed in MCOP.No.654 of 2010 on the file of the Motor Accident Claims Tribunal/V Additional District Judge, Fast Track Court III, Coimbatore.

For Appellant : Mrs.I.Malar

For Respondents : Mr.R.Bharathkumar for R1 and R2
No appearance for R3 and R4

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J U D G M E N T

The United India Insurance Company, the third respondent in MCOP.No.654 of 2010 on the file of the V Additional District Judge, Fast Track Court III, Coimbatore has filed the present appeal. The respondents 1 and 2 / claimants filed the above said claim petition under Section 166 (1) of the Motor Vehicles Act, 1988 seeking compensation of Rs.10,00,000/- for the death

of one Balasubramaniam, husband of the first claimant and father of the second claimant in a road accident on 20.12.2009.

2. The case of the claimant in nutshell is as follows:

On 20.12.2009, the deceased Balasubramaniam was riding his motorcycle bearing Registration No.TN 37 AY 0578 along Sungam Bypass road, Classic Tower Junction, Coimbatore and at about 13.30 hours, a speeding lorry bearing Registration No. TN 40 9577 belonging to the fourth respondent and insured with the present appellant hit the motorcycle, as a result of which, the deceased Balasubramaniam fell down and died on the spot. According to the claimants, the rash and negligent driving of the driver of the lorry belonging to the fourth respondent was the cause of the accident and that since the said lorry was insured with the appellant/United India Insurance Company, the driver, the owner and the insurer of the lorry are jointly and severally liable to pay compensation.

3. The driver and the owner of the lorry (third and fourth respondents) remained absent before the Tribunal and therefore, they were set exparte. The United India Insurance Company contested the claim petition on all the grounds available to the insured. The learned V Additional District Judge, Fast Track Court III/Motor Accident Claims Tribunal, Coimbatore after analysing the evidence on record, awarded a compensation of Rs.3,82,000/- together with interest at the rate of 7.5% per annum to the claimants. Aggrieved over the orders passed by the Tribunal, United India Insurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard Mrs.I.Malar, learned counsel appearing for the appellant and Mr.R.Bharathkumar, learned counsel appearing for the respondents 1 and 2. No appearance on behalf of the respondents 3 and 4.

5. In the instant case, the deceased was aged 64 years on the date of the accident and the Tribunal had adopted multiplier '5' while calculating loss of dependency and awarded a sum of Rs.3,82,000/- together with interest at the rate of 7.5% per annum. By no stretch of imagination, the award passed by the Tribunal can be said to be exorbitant and in the facts and circumstances of the present case, the appeal fails and is dismissed.

6. In the result,

- (i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.
- (ii) The orders passed by the Tribunal is upheld.

(iii) The appellant / United India Insurance Company is directed to deposit the compensation awarded by the Tribunal i.e., Rs.3,82,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.654 of 2010 on the file of the Motor Accident Claims Tribunal / V Additional District Judge, Fast Track Court III, Coimbatore within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondents 1 and 2/ claimants are at liberty to withdraw the same as per the orders passed by the Tribunal, after following the due process of law. The apportionment made by the Tribunal shall be kept intact.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
The V Additional District Judge,
Fast Track Court III,
Coimbatore.
2. VR Section,
High Court of Madras.

+1cc to Mr.R.Bharathkumar, Advocate, S.R.No.91224

+1cc to Mr.T.Ravichandran, Advocate, S.R.No.91218

CMA.No.755 of 2014
and
MP.No.1 of 2014

GMR(CO)
CS/03/06/2020

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