

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1316 of 2017

and C.M.P.No.6775 of 2017

National Insurance Co.Ltd.
Pondicherry Branch.

... Appellant/Respondent-II

Vs

1.Jayapal ...Respondent I/Petitioner I

2.Minor Gana Helan ...Respondent II/Petitioner II

3.Minor Gana Soundari ...Respondent III/Petitioner III

4.Minor Bala
(Minor respondents 2 to 4 are represented
through their father, Jayapal, the first
respondent herein). ...Respondent IV/Petitioner IV

5.Krishnamoorthy ...Respondent V/Respondent I

Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 07.01.2011 made in MCOP No.33 of 2010 on the file of the Motor Accidents Claims Tribunal (Additional District Judge) Fast Track Court No.1 of Chithambaram at Cuddalore District.

For Appellant : Mr.J.Chandran

For Respondents: Mr.R.Elanchezian for R1 to R4

JUDGMENT

The case in brief, is as follows:

On 14.09.2006 at about 19.30 hours, the deceased Sundari was travelling as a pillion rider in the two-wheeler bearing Reg.No.TN-31-8121 from Sethiathoppu Cross Road, Chidambaram Taluk to Manakkadu Village. When the two-wheeler was proceeding between Sethiathoppu Cross Road and the Anaivai Village, the motorcycle bearing Reg.No.TN-09-L-8656 belonging to the fifth respondent herein and insured with the appellant Insurance Company, came from behind in a rash and negligent manner and dashed against the two-wheeler in which the deceased was

travelling. Due to the said impact, the deceased sustained grievous injuries all over the body. She was admitted in the Chidambaram Raja Muthiah Medical College Hospital and she succumbed to the injuries in the hospital. The husband and the minor children of the deceased filed a claim petition before the Tribunal, claiming a sum of Rs.25,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.4,11,400/- with interest at the rate of 7.5% per annum from the date of petition.

2.Challenging the same, the appellant Insurance Company has filed the present appeal.

3.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in coming to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the two-wheeler bearing Reg.No.TN-09-L-8656 belonging to the fifth respondent and insured with the appellant Insurance Company. It is also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

4.The learned counsel for the respondents 1 to 4 / claimants has submitted that the Tribunal has correctly considered the materials and evidence on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant and the learned counsel for the respondents 1 to 4 / claimants and perused the materials and evidence available on record carefully and meticulously.

6.The husband of the deceased has been examined as P.W.1 before the Tribunal. P.W.2 is the eye-witness to the accident. P.W.2 deposed before the Tribunal that the deceased was travelling as pillion rider in the two-wheeler bearing Reg.No.TN-31-8121 driven by one Ramachandran slowly and proceeding from Sethiathoppu Cross Road to Manakkadu Village and at that time, the two-wheeler bearing Reg.No.TN-09-L-8656 belonging to the fifth respondent herein, came in a rash and negligent manner and dashed against the two-wheeler in which the deceased was travelling. It is also seen that when the deceased was taken to the hospital after sustaining injuries, she stated that an unknown vehicle came and dashed against the vehicle in which she was travelling and thereafter, the offending vehicle has been traced by the police on the next day of the accident. Considering the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the

two-wheeler bearing Reg.No.TN-09-L-8656 belonging to the fifth respondent. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

7.With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.3,26,400/- towards loss of income. The said sum has been arrived at by fixing the monthly income of the deceased at Rs.1,800/- since she was employed as Assistant Constable in the Prison on daily wage basis at Rs.60/- per day, deducting a sum of Rs.200/- towards personal expenses of the deceased and adopting the multiplier of 17. The Tribunal has also awarded a sum of Rs.20,000/- towards loss of consortium, Rs.60,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses. The Tribunal has rightly considered the materials and evidence, correctly fixed the income of the deceased, adopted the correct multiplier and arrived at Rs.3,26,400/- towards loss of income. The amounts awarded by the Tribunal towards other heads are also very reasonable and hence the same are confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The minor respondents 2 to 4 would have attained majority by now. Hence, on such deposit being made, all the claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal
(Additional District Judge) Fast Track Court No.1
of Chithambaram at Cuddalore District.

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

+1 cc to M/s.R.Elanchezhiyan, Advocate,sr.84758.

Rp(co)
krd 22/9

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