

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.09.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.36 of 2017
and C.M.P.No.331 of 2017

United India Insurance Company Ltd.,
Rep by its Branch Manager,
K.B.S.Motor Building,
No.36, Katpadi Road,
Gandhi Nagar, Vellore. Appellant

Vs

1.U.Chandrasekar
2.A.Mohamad Ghouse
3.Lakshmi
4.Bhuvaneswari
5.Savitha
6.Devi Respondents

Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 19.03.2013 made in MCOP No.331 of 2010 on the file of the Motor Accidents Claims Tribunal, Sub-Court, Vaniyambadi.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.PA.Sudesh Kumar for
R3 to R6

No Appearance for R1 & R2

JUDGMENT

This appeal has been preferred by the appellant Insurance Company against their liability of Rs.5,61,600/- towards compensation to the respondents 1 and 3 to 6, due to the death of the husband of the third respondent, in a motor vehicle accident.

2.The facts of the case would run thus:

On 16.10.2010, when the husband of the third respondent along with his son-in-law was proceeding as a pedestrian, opposite to Pudur Raja Petrol Bunk on the Vaniyambadi-Krishnagiri Road, at about 19.00 hours, the Tata Sumo bearing Reg.No.TN-24-E-0555 came in a rash and negligent manner and dashed against the deceased. Due to the said impact, the husband

of the third respondent sustained grievous injuries all over the body and he was taken to the Government Hospital, Vaniyambadi where, he succumbed to the injuries. The son of the deceased filed a claim petition before the Tribunal. Considering the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.5,61,600/- with interest at 7% p.a. from the date of petition.

3.Challenging the compensation awarded by the Tribunal, the present Civil Miscellaneous Appeal has been filed by the Insurance Company.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in awarding a total compensation of Rs.5,61,600/- without any acceptable evidence of proof of earnings of the deceased. He further submitted that the multiplier fixed by the Tribunal is not correct. But he has not disputed the aspect of negligence fixed by the Tribunal.

5.The learned counsel for the claimants has submitted that the Tribunal has considered all the materials and evidence available on record and has rightly awarded the compensation which is just and reasonable, and hence the judgment of the Tribunal need not be interfered with by this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.Since the learned counsel for the appellant has not disputed the aspect of negligence, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the Tata Sumo car, does not require any interference by this Court.

8.Next comes quantum. It was put forth on the side of the claimant that the deceased was earning a sum of Rs.10,000/- per month as a Manager in a country medicine manufacturing company. In the absence of any proof to substantiate the income, the Tribunal fixed the monthly income of the deceased at Rs.4,500/-, arrived at the annual income at Rs.54,000/- and adopting the multiplier of 14, arrived at a sum of Rs.7,56,000/-. Thereafter, the Tribunal has deducted $\frac{1}{3}$ rd of the amount towards personal expenses of the deceased and arrived at the sum of Rs.5,04,000/- towards loss of income. The Tribunal has rightly considered the materials and evidence, adopted the correct multiplier and arrived at the sum of Rs.5,04,000/- towards loss of income. The amounts awarded by the Tribunal towards other heads, ie., Rs.5,000/- each towards loss of love and affection to the

respondents 4 to 6, Rs.10,000/- towards loss of consortium to the wife of the deceased, Rs.5,000/- towards funeral expenses, Rs.21,998.13 towards medical expenses as per Ex.P4 and Rs.5,600/- towards car rent charges as per Ex.P5, are very reasonable and hence the same are confirmed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10.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. On such deposit, the claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gbi/km
To

1.The Sub-Judge,
Motor Accidents Claims Tribunal,
Vaniyambadi.

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

+1cc to Mr.D.Bhaskaran , Advocate SR.No. 83016

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spd

A.SK(20/07/2020)

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