

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3008 of 2018

- 1.T.R.Rangamma
- 2.R.Prabakarn
- 3.R.Prabavathy
- 4.R.Guna
- 5.R.Banumathi

... Appellants/Claimants

Vs.

- 1.Ramalingam
- 2.The Branch Manager,
United India Insurance Company
Limited, Katpadi,
Vellore 4.
- 3.R.Moahanakrishnakumar
- 4.The Branch Manager,
National Insurance Company Limited
305, Bangalore Road,
Krishnagiri.
- 5.Rukkammal

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.03.2004 made in M.C.O.P.No.886 of 2002 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court No.I, Krishnagiri, Dharmapuri Distirct.

For Appellants : Mr.U.Chithambaram
for Mr.K.Varadhakamaraj

For Respondents : Mr.J.Chandran for R2
Mr.N.Vijayaraghavan for R4.

J U D G M E N T

This Civil Miscellaneous Appeal is filed for enhancement of compensation of the award dated 24.03.2004 made in M.C.O.P.No.886 of 2002 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court No.I, Krishnagiri, Dharmapuri Distirct.

2.The appellants are the claimants in M.C.O.P.No.886 of 2002 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court No.I, Krishnagiri, Dharmapuri Distirct. They filed the above claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of one Ramachandran, who died in the accident that took place on 24.02.2002.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the lorry belonging to the first respondent and directed the second respondent/Insurance Company to pay a sum of Rs.75,000/- as compensation to the appellants/claimants.

4.Not being satisfied with the award amount granted by the Tribunal, the appellants have come out with the present appeal for enhancement of compensation.

5.The learned counsel appearing for the appellant contended that the tribunal erred in fixing the age of the deceased based on the Postmortem report. The deceased was owning agricultural land and was hale and healthy. The tribunal ought to have fixed minimum income of the deceased as per the Judgment of the Hon'ble Apex Court and prayed for enhancement of compensation.

6.The learned counsel appearing for the second respondent-Insurance Company contended that the appellants have not proved that the deceased was owning agricultural land and earning income. In such circumstances, the tribunal has awarded a sum of Rs.30,000/- for the first appellant and a sum of Rs.25,000/- was awarded to the fifth appellant and a sum of Rs.20,000/- has been awarded towards funeral expenses. The amounts awarded by the Tribunal under different heads are not meager for the accident occurred in the year 2002 and prayed for dismissal of the appeal.

7.The learned counsel appearing for the fourth respondent-Insurance Company submitted that the tribunal has exonerated the fourth respondent and the appeal may be dismissed and prayed for dismissal of the appeal against the fourth respondent.

8.Heard the learned counsel appearing for the appellants as well as the second and fourth respondents and perused all the materials available on record.

9.From the materials on record, it is seen the Tribunal has considered the age of deceased mentioned in the postmortem report as 60 years and fixed age of the deceased accordingly.

The appellants contended that the deceased was owning 20 acres of land and was earning a sum of Rs.15,000/- per month. The appellants have not proved the same. In view of such failure, the Tribunal has awarded consolidated compensation of a sum of Rs.30,000/- for the first appellant and a sum of Rs.25,000/- was awarded to fifth appellant and a sum of Rs.20,000/- has been awarded for funeral expenses. The amounts awarded by the tribunal are not meager as contended by the appellants and there is no error in the award passed by the Tribunal in not fixing any notional income of the deceased.

10. For the above reason, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The second respondent/Insurance Company is directed to deposit a sum of Rs.75,000/- as compensation along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw their share of the award amount along with interest and cost, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

krk/vkr

To

Chief Judicial Magistrate No.1,
Motor Accidents Claims Tribunal,
Krishnagiri, Dharmapuri. सत्यमेव जयते

+1cc to Mr.J.Chandran, Advocate SR.No.1536

+1cc to Mr.K.Varadahakamaraj, Advocate SR.No.544

+1cc to Mr.N.Vijaya Raghavan Advocate SR.No.1596

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RSI (CO)
GMY (09/05/2019)