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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.709 of 2007

and

M.P.No.2 of 2007

(Through Video Conferencing)

M/s.United India Insurance
Company Limited,
No.261, Nehru Street,
Pondicherry.

... Appellant/2nd Respondent

vs.

1.V.Deivasigamany

2.Anjalai

3.M.Lakshmanan

4.M/s.New India Assurance Co., Ltd.,
No.127-A, Thiru.vi.Ka Road,
Cuddalore.

5.Soundararajan

(R3 & R5 set exparte before the
Tribunal)

...Respondents 1 & 2/Petitioners

... Respondents 3 to 5/
Respondents 1,3 & 5

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Decree and Judgment passed in M.A.C.T.O.P.No.1341 of 2003 dated 05.03.2005 (Additional Sub Court) Cuddalore.

For Appellant : Ms.V.Renukadevi

For R1 & R2 : Mr.R.Sathiyakumar

For R4 : Mr.K.Mohan

J U D G M E N T

The appellant Insurance company is aggrieved by the impugned Judgment and Decree dated 05.03.2005 passed by the Motor Accidents Claims Tribunal, (Additional Sub Court) Cuddalore, in M.A.C.T.O.P.No.1341 of 2003.



2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.4,60,000/- as compensation together with interest at 9% per annum, from the date of the claim petition, till the date of deposit, payable by the appellant - Insurance Company to the 1st and 2nd respondents who were the claimants before the Tribunal. The Tribunal has dismissed the claim petition as against 3rd respondent and 4th respondents.

3. Aggrieved by the same, the appellant Insurance Company has filed this Civil Miscellaneous Appeal.

4. The 1st and 2nd respondents are the parents of the deceased Sakthivel. The case of the respondent Nos.1 and 2 before the Tribunal was that the deceased Sakthivel met with an accident on 21.04.2003 when he was coming with his friend on a Hero Honda Motorcycle bearing Reg.No.TN-31-D-9680 from south to north at Periyakanganankuppam, Cuddalore to Pondi Main Road, when the driver of the third respondent drove the insured bus bearing Reg.No.PY 01 K 9229 allegedly in a rash and negligent manner and hit the motorcycle, as a result of which, the deceased Sakthivel who was riding the motorcycle fell down and suffered grievous injuries and died on the spot.

5. The learned counsel for the appellant submitted that the deceased drove the motorcycle along with his two persons as pillion riders. Thus, there was a violation of the policy conditions. It was further submitted that the deceased was in a drunken state at the time of the accident and hit against the insured bus. It is submitted that the deceased himself was the tort-feasor.

6. The learned counsel for the appellant-Insurance Company further relied on the decision of this Court reported in United India Insurance Co. Ltd., 7-A, Malaveli Street, Madurai-625 001 vs. 1. Rajalakshmi and 5 others, 2010(2) MWN 319 wherein it was held that when the deceased was a bachelor, the correct multiplier to be adopted for determining the compensation would be with reference to the age of the mother.

7. The learned counsel for the 1st and 2nd respondents-claimants submitted that the Tribunal has awarded just compensation. He submits that the impugned Judgment and decree was well reasoned and requires no interference. He therefore prayed for dismissal of this appeal.

8. I have considered the arguments advanced by the learned counsel for the appellant-Insurance Company and the 1st and 2nd respondents and the 4th respondent - Insurance Company. I have



14. Therefore, 40% has to be added to the income of the deceased future prospectus. At the same time, 50% is deducted towards the personal expenses of the deceased. Since the deceased was aged 27 years, the correct 17 multiplier to be applied and not 18 multiplier. In view of the same, I am inclined to modify the compensation awarded by the Tribunal as follows:-

Head and Calculation	Compensation re-quantified by this Court
Income of the deceased : Rs.2500/-	
Add: Future prospectus at 40% *: Rs.1,000/-	

: Rs.3,500/-	
Less: Personal expenses (3500 x $\frac{1}{2}$) : Rs.1750/-	

: Rs.1,750/-	
Annual Income - 1,750 x 12 : Rs. 21,000/-	Rs.3,57,000/-
Multiplier - 17	
(21,000 x 17) : Rs.3,57,000/-	
Loss of Love and Affection (10,000 x 2)	Rs. 20,000/-
Funeral Expenses	Rs. 5,000/-
Loss of estate	Rs. 3,000/-
Total	Rs.3,85,000/-

15. Since the interest has been reduced from 9% to 7.5%, I am inclined to reduce the interest at 7.5%.

16. The appellant-Insurance Company is therefore directed to deposit the re-quantified amount of compensation of Rs.3,85,000/- together with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and costs, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment.

17. On such deposit, the 1st and 2nd respondents/claimants are permitted to withdraw the same together with interest and cost if any, equally, by filing suitable applications before the Tribunal.



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18. Accordingly, this Civil Miscellaneous Appeal is partly allowed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

kkd

To:-

The Additional Sub Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

Copy to

The Section officer,
VR Section,
High Court, Madras.

C.M.A.No.709 of 2007
and M.P.No.2 of 2007

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srg 25/08/2021