

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1170 of 2010

and

MP.No.1 of 2010

The United India Insurance Co. Ltd.,
Chidambaram. Appellant/2nd Respondent

vs.

1.Rajangam
2.Lakshmi Respondets 1&2/Petitioners
3.Alamelu Aachi 3rd Respondent/1st Respondent
(R3-set exparte in the Lower Court)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 14.09.2006 in M.C.O.P.No.18 of 2003 on the file of the Motor Accident Claims Tribunal (Presiding Officer / Subordinate Judge), Chidambaram.

For Appellant : Ms.N.Mala

For Respondents : R1 - Died (steps due)
R2 - No appearance
R3 - Exparte

J U D G M E N T

The United India Insurance Company, the second respondent in MCOP.No. 18 of 2003 on the file of the Motor Accident Claims Tribunal (Presiding Officer / Subordinate Judge), Chidambaram has filed the present appeal questioning the quantum of compensation awarded by the Tribunal.

2. The first and second respondents / claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.57,00,000/- for the death of their son, namely, Ramalingam, in a road accident that took place on 05.04.2002.

3. The case of the respondents 1 and 2 / claimants is that on 05.04.2002, at about 14.00 hours, the deceased Ramalingam was riding his bicycle along with his friend one Rajasimman, near Mannargudi intersection (Sabanayagar Street

leading to Sirkali to Chidambaram) and at that time, a bus bearing Registration No. TN 31 R 0900 belonging to the third respondent and insured with the present appellant, driven by its driver in a rash and negligent manner hit the bicycle, as a result of which, both of them fell down. Immediately, the deceased Ramalingam was taken to the Hospital, however, he died on the way to the Hospital. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the third respondent was the cause of the accident. Therefore, they filed MCOP.No.18 of 2003 seeking compensation of Rs.57,00,000/-.

4. The owner of the bus remained absent before the Tribunal and therefore, she was set exparte. The United India Insurance Company contested the claim petition on all the grounds available to the insured. The learned Subordinate Judge / Motor Accident Claims Tribunal, Chidambaram after analysing the evidence on record, awarded a compensation of Rs.10,37,400/- together with interest at the rate of 8% per annum to the claimant.

5. Challenging the said award dated 14.09.2006 made in M.C.O.P.No.18 of 2003, granting compensation to the respondents 1 and 2 / claimants, the appellant / Insurance Company has come out with the present appeal.

6. The learned counsel appearing for the appellant / Insurance Company contended that the Tribunal erred in applying multiplier '18', on the basis of the age of the deceased and that the Tribunal ought to have applied the appropriate multiplier to the age of the parents of the deceased, since the deceased died as a Bachelor. She also contended that the Tribunal ought to have rejected the salary certificate (Ex.A10) marked by the respondents 1 and 2 / claimants, since the person who issued the same was not examined before the Tribunal. She therefore prayed for scaling down the compensation awarded by the Tribunal.

7. No appearance on behalf of the respondents.

8. Heard the learned counsel appearing for the appellant / Insurance Company and perused the materials on record, available before this Court.

9. In the claim petition, the respondents 1 and 2 / claimants have contended that their son was working as a Teacher in a Government High School, T.Neduncheri, Chidambaram earning a sum of Rs.6,976/- per month. They have also produced salary certificate (Ex.A10) to prove the occupation of their deceased son. The Tribunal considering the salary certificate (Ex.A10), held that the deceased was earning a sum of Rs.6,976/- per month. The accident is of the year 2002. The income fixed by the Tribunal based on the documentary

evidence, cannot be said to be wrong. Therefore, the sum of Rs.6,976/- fixed as monthly income of the deceased is just and fair. The respondents 1 and 2 / claimants have contended that the deceased was aged 28 years at the time of the accident. The Tribunal after considering all these facts and circumstances, has adopted '18' multiplier based on the well laid principles of law which were in vogue, at the time of passing the order and awarded a sum of Rs.10,04,400/- towards 'loss of earnings' and the same need not be disturbed at this stage. Further, the Tribunal has also rightly awarded a sum of Rs.10,000/- towards 'funeral expenses'. Taking into consideration, the year of the accident, the Tribunal has awarded a sum of Rs.3,000/- towards 'transport expenses', which cannot be found fault with. A sum of Rs.20,000/- awarded by the Tribunal towards 'loss of love and affection' cannot also said to be excessive. Therefore, this Court is of the opinion that a sum of Rs.10,37,400/- awarded by the Tribunal towards compensation to the respondents 1 and 2 / claimants is not excessive warranting interference by this Court. In view of the above discussions, the orders passed by the Tribunal is upheld.

10. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The Subordinate Judge,
The Motor Accidents Claims Tribunal,
Chidambaram.

Copy to:

The Section officer,
VR Section, High Court,
Madras-104.

C.M.A.No.1170 of 2010

CB(14/09/2020)