

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No. 3284 of 2008

and

MP No.1 of 2008

The Manager,
United India Insurance Co. Ltd.,
No.38, Anna Salai,
Chennai - 2. Appellant /2nd Respondent

versus

1. J. Meenakshi
2. Minor J.Madhumathi
3. Minor J. Saravanan1 to 3 Respondent/Petitioners
Minor Petitioners are rep. By
their mother Natural guardian
and next friend J. Meenakshi
4. T. Ganesh4th Respondent/1st Respondent
5. M.Srinivasan5th Respondent/3rd Respondent
6. The Manager,
M/s.United India Insurance Co. Ltd.,
No.38, Anna Salai,
Chennai - 2. 6th Respondent/4th Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 30.04.2008 made in M.C.O.P. No.1160 of 2005 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tiruvallur.

For Appellant : Mr. S. Arunkumar

For Respondents : R4 - Served - No appearance
Not ready notice reg. R1 to R3,
R5 and R6

JUDGMENT

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed challenging the award dated 30.04.2008 passed by the Motor Accidents Claims Tribunal, Sub Court, Tiruvallur in MCOP No.1160 of 2005.

Brief facts leading to the filing of the Civil Miscellaneous Appeal

2. On 03.12.2005, a person by name R. Jayavelu was travelling in a Auto bearing Registration No.TN-05-P-9069 and due to rash and negligent driving by the Driver of the said Auto, it dashed against another Auto bearing Registration No.TN-05-Q-8606 driven by the owner of the vehicle. As a result, the Auto bearing Registration No.TN-05-P-9069 was capsized and it caused the death of R. Jayavelu.

3. The claimants are the legal representatives and the dependants of the deceased and they are his wife and the two minor children. They preferred a claim before the Motor Accidents Claims Tribunal, Sub Court, Thiruvallur against the owners of the two Autos as well as the Appellant Insurance Company which is the insurer for the Auto bearing Registration NO.TN-05-P-9069 seeking a compensation of Rs.12,00,000/-.

4. The Motor Accidents Claims Tribunal (Sub Court, Tiruvallur) by its award dated 30.04.2008 passed in M.C.O.P. No.1160 of 2005, directed the Appellant / Insurance Company to pay the claimants a sum of Rs.6,81,000/- together with interest at 7.5% per annum from the date of claim till the date of realization. Out of the total compensation, the Tribunal determined the amount payable to the first claimant being the Wife of the deceased at Rs.4,75,000/-, the second and third claimants being the minor Daughter and Son of the deceased respectively at Rs.1,03,000/- each.

5. Aggrieved by the award dated 30.04.2008 passed by the Sub Court, Tiruvallur in M.C.O.P. No.1160 of 2005, this appeal has been filed by the Appellant / Insurance Company.

6. The Appellant / Insurance Company has challenged the impugned award only on the ground that the quantum of compensation awarded by the Tribunal is excessive. It is their case that the Tribunal has erroneously fixed the notional income of the deceased at Rs.4,500/-p.m. and that it has also erred in

applying 16 years multiplier. Further, they have also questioned the quantum of compensation awarded by the Tribunal under various heads.

7. Heard Mr.S.Arunkumar, learned counsel for the appellant. Despite service of notice on the second respondent, there is no appearance on her side. In respect of remaining respondents, notice has not been served.

8. This Court has perused and examined the impugned award.

Discussion :

9. As seen from the impugned award, the claimants have filed nine documents, which were marked as Exs.P1 to P9 and three witnesses were examined on their side, viz., PW1, PW2 and PW3. On the side of the Appellant / Insurance Company neither any document was filed nor any witness was examined. The claimants in their claim petition have stated that the deceased at the time of the accident was 35 years old and was earning a monthly income of Rs.7,500/-p.m. The accident happened on 3.12.2005. The Appellant / Insurance Company has not disputed the accident and they have also not disputed that the Driver of the insured vehicle was responsible for the cause of the accident. No contra evidence has been produced by the Appellant / Insurance Company to disprove the contention of the claimants that the deceased was aged 35 years and they are also unable to disprove the notional income of the deceased assessed by the Tribunal at Rs.4,500/-p.m. This being the case and considering the fact that the year of the accident is 2005, the notional income of the deceased fixed at Rs.4,500/-p.m., by the Tribunal is reasonable and therefore, it does not call for any interference.

10. Insofar as applying 16 years multiplier by the Tribunal is concerned, the same is in accordance with the settled position of law. Insofar as the compensation awarded under various other heads viz.,Rs.5,000/- towards funeral expenses; Rs.30,000/- towards Loss of Consortium; Rs.20,000/- towards Shock and Mental agony; Rs.20,000/- towards Love and affection and Rs.30,000/- towards Loss of happiness are concerned, the same is a reasonable sum. This Court after taking an overall view of the award is of the opinion that the compensation awarded by the Tribunal under the impugned award is a just compensation which does not call for any interference.

Conclusion :

11. In the result, there is no merit in this Appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.1160 of 2005, on the file of the Motor Accidents Claims Tribunal, (Sub Court, Tiruvallur), within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first claimant / wife of the deceased, as per the same ratio of apportionment made by the Tribunal, through RTGS, within a period of two weeks thereafter. Insofar as the share of the second and third respondents / minor claimants are concerned, the same shall be deposited in Fixed deposit in any one of the Nationalized Banks, till they attain the age of majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimant once in three months, directly from the Bank. If the second claimant / minor claimant has attained the age of majority, it is open to her to file formal petition before the Tribunal to get her share of apportionment.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi2

To :

1. The Motor Accidents Claims Tribunal,
Sub Court, Tiruvallur.
2. The Section Officer,
V.R. section,
High Court, Madras - 104.

WEB COPY

C.M.A. No.3284 of 2008

bp[co]
srg 25/01/2021