

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.502 of 2009

and

M.P.No.1 of 2009

(Through Video Conferencing)

New India Assurance Company Ltd.,
163, Puthiya Madhanagobalapuram,
Perambalur. ... Appellant/2nd Respondent

Vs.

1. Chellammal
2. Ravichandran
3. Dharadurai
4. Chitra
5. Kumar
6. Velayutham ...1 to 6 Respondents/Claimants
7. P.Sakthivel ...7th Respondents/1st Respondent

(7th respondent herein was set exparte
before lower court, hence notice to him
may be dispensed with)

Civil Miscellaneous Appeal filed under Section 173 of Motor
Vehicles Act, 1988 against the Judgment and Decree in
M.C.O.P.No.508 of 2006, dated 28.11.2008, on the file of the
Motor Accidents Claims Tribunal (Principal District Judge) at
Perambalur.

For Appellant : Mr.K.Mohan

JUDGMENT

The appellant Insurance Company is the appellant in this
appeal and is aggrieved by the impugned Judgment and Decree
dated 28.11.2008 passed by the Motor Accidents Claims Tribunal
(Principal District Judge, Perambalur) in M.C.O.P.No.508 of
2006.

2. By the impugned Judgment and Decree, the Tribunal has
awarded a sum of Rs.2,49,000/- together with interest at 7.5%
per annum from the date of filing of the claim petition, till

the date of deposit, to the first respondent/claimant. The deceased Annamalai is the husband of first respondent, father of second to fifth respondents and son of the sixth respondent.

3. In this appeal, the appellant Insurance Company admits a liability of Rs.50,000/- under Section 140 of Motor Vehicles Act, 1988. On behalf of the appellant Insurance Company it was submitted that the Tribunal erred in awarding compensation on the ground that the alleged accident is said to have taken place on 06.03.2006 at about 9.25 hours, whereas the deceased died on 16.06.2006 and that there was no connection between the accident and death of the deceased. It is further submitted that respondents have not produced any documents to substantiate that the death was on account of the injuries suffered by the deceased in the accident.

4. The Tribunal has awarded the aforesaid compensation (Rs.2,49,000/-) by relying on the deposition of P.W.3-Doctor who stated that there are no fractures but the death on account of internal injuries which could have led to the death of the deceased.

5. It is noticed from the facts as discussed by the Tribunal and as stated in the claim petition, the deceased met with an accident on 06.03.2006 and eventually died on 16.06.2006. During this period, the deceased had been admitted to the hospital and discharged and was undergoing treatment from time to time. The deceased was eventually discharged from Annai Hospital, Perambalur on 08.06.2006 and thereafter he died on 16.06.2006.

6. Thus, there is a connection between the injury and eventual death of the deceased on 16.06.2006. The Tribunal has awarded compensation on various heads and ordered as follows:-

- " (i) Transport Expenses = Rs.5,000/-
- (ii) Cremation Expenses = Rs.2,000/-
- (iii) Loss of Marital Prospects = Rs.10,000/-
- (iv) Loss of Love and Affection = Rs.15,000/-

Out of the total compensation, the first claimant is entitled to Rs.1,00,000/-, the second to fifth claimants are entitled to Rs.30,000/- each and sixth claimant is entitled to Rs.29,000/-.

This appeal is partly allowed. The total compensation is arrived at Rs.2,49,000/- with interest at the rate of 7.5% per annum from the date petition till the date deposit and the said amount shall be deposited by the second respondent herein within a period of two months.

The total amount shall be deposited in any nationalised bank for a period of three years and the interest accrued there on shall be withdrawn by the claimants once in three months directly from the bank."

I am inclined to confirm the award passed by the Tribunal without prejudice to the independent rights of the respondents for enhancement of compensation, if any, separate appeal has been filed by them.

7. If the amount of compensation awarded by the Tribunal has not been deposited by the appellant Insurance Company, it is directed to deposit the same together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of the copy of this Judgment.

8. On such deposit, the first respondent/claimant is entitled to withdraw her share together with interest as directed by the Tribunal, by filing suitable application before Tribunal, if the award amount has not been already withdrawn by her as per the impugned Judgment and Decree.

9. Accordingly, the present Civil Miscellaneous Appeal stands dismissed. No cost. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To:

1.The Motor Accidents Claims Tribunal,
Principal District Judge at Perambalur.

2.The Section Officer,
V.R.Section, High Court, Madras-104.

C.M.A.No.502 of 2009
and

M.P.No.1 of 2009

CP (CO)
RMP (06/11/2020)