

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1289 of 2015

and

M.P.No.1 of 2015

The Divisional Manager,
United India Insurance Co.Ltd.,
No.2, Dr.Sankaran Road,
Namakkal – 637 001

.. Appellant

Vs.

1.Padma
2.J.Rajendiran
3.Ambika
4.Mrs.V.Arulmozhi

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 01.11.2011 made in M.C.O.P.No.1661 of 2007 on the file of The Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri.

For Appellants : Mr.S.Arunkumar

JUDGMENT

The judgment and decree dated 01.11.2011 passed in M.C.O.P. No. 1661 of 2007 is under challenge in the present civil miscellaneous appeal.

2. The accident occurred on 10.05.2006 at the early morning 4.30 hours, the deceased Arun @ Arunkumar was driving a car TATA Indiga bearing registration No. KA-03-B-5159 from Salem to Bangalore, after dropping a passenger at Pudukottai. There were two more passengers also travelling in the car. The driver of the car Mr.Arun @ Arun Kumar was proceeding on the left side of the road, slowly and cautiously and was following the road rules and when the car was nearing Sevvampettai diversion road in Salem to Dharmapuri N.H. Road, the driver of the lorry bearing registration No.KA-01-C-1369 belongs to the first respondent and insured with the second respondent, drove the same in a rash and negligent manner and dashed against the car, which caused the accident. The driver of the car, Arun @ Arun Kumar and one Srinivasa Naidu were sustained fatal injuries and also

died on the spot itself and one Lakshmi and Saraswathi were also sustained grievous injury and the injured person Sarasu @ Saraswathi died in the Government Hospital, Dharmapuri and the Athiayman Kottai police registered a case in Crime No. 303 of 2006 under Sections 279, 337 and 304(A) IPC. The claim petitions were filed seeking compensation. The Tribunal adjudicated the issues and arrived a conclusion that the accident occurred on account of the rash and negligent driving of the lorry driver and the evidences produced also revealed that the lorry driver was responsible for the accident happened. The trial court examined the post-mortem report of the deceased Arun @ Arunkumar, who was driving the car, considering his age as well as his avocation, the Tribunal has granted compensation of Rs.6,63,000/- along with interest @ 6 % p.a.

3. The learned counsel appearing on behalf of the appellant/ United India Insurance Company mainly contended that there is no documentary evidence produced to prove the earning capacity of the deceased driver of the car. Thus, the Tribunal has committed an error in fixing the income at Rs.6,000/- p.m. In the absence of any document to establish the income and

age, the Tribunal ought not to have granted a compensation of Rs.6,63,000/-, which is on the higher side.

4. This Court is of the considered opinion that the deceased, admittedly, was driving the car, which met with an accident fixing a sum of Rs.6,000/- p.m. cannot be construed as an excessive income as far as the driver is concerned. In fact, the income fixed by the Tribunal cannot be said to be excess and in fact, it is reasonable. This Court do not find any perversity or infirmity in the matter of fixing the liability or fixing the monthly income of the deceased driver.

5. This being the factum, this Court is not inclined to interfere with the judgment and decree passed by the Tribunal, as over all compensation granted by the Tribunal is very much reasonable and cannot be construed as bad. Accordingly, the judgment and decree dated 01.11.2011 passed in M.C.O.P. No. 1661 of 2007 is confirmed and C.M.A. No. 1289 of 2015 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

6. However, this Court is inclined to enhance the interest rate from 6% to 7.5% per annum. Thus, the claimants are entitled to get the enhanced interest @ 7.5% per annum. The appellant/Insurance Company is directed to deposit the entire amount with accrued interest, if not already deposited, within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the claimants are permitted to withdraw the said amount by filing an appropriate application and the payments are to be made only through RTGS.

19.03.2020

Index : Yes
Speaking order
Maya

To

- 1.The Section Officer,
V.R Section,
High Court, Madras.
- 2.The Principal District Judge,
(Motor Accidents Claims Tribunal),
Krishnagiri.

S.M.SUBRAMANIAM, J.,

Maya



C.M.A. No.1289 of 2015

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