

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.45 of 2010 and

and M.P.No.1 of 2010

The National Insurance Company,
Barathiyar Building,
Avinashi Road,
Tiruppur.

... Appellant/2nd Respondent

Vs.

1.Narasimman

2.Vijaya

... 1 & 2 Respondents/Petitioners

3.Senthil Kumar

(R3 set exparte before the lower court)

... 3rd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 , against the Judgment and decree dated 15.02.2008 made in M.C.O.P.No.268 of 2004 on the file of the Motor Accident Claims Tribunal (Fast Track Court No.IV) (Addl.District Judge) Coimbatore at Tiruppur.

For Appellant : M/s.R.Sreevidhya

For R1 & R2 : No Appearance

JUDGMENT

Though notice has been served on the contesting respondents/claimants, there is no representation on behalf of them. Since, no adverse order are to be passed against the contesting respondents, with consent of the learned counsel for the appellant, this appeal is taken up for hearing and is disposed by this Judgment.

2. The appellant-Insurance Company is aggrieved by the impugned fair and decretal order dated 15.02.2008 passed by the Motor Accident Claims Tribunal, (Fast Track Court No.IV)

(Addl.District Court) Coimbatore at Tiruppur in M.C.O.P No.268 of 2004(hereinafter referred to as the Tribunal)

3. The facts of the case are as follows:

On 02.02.2003 at about 16.00 hrs., when the deceased Chandrasekar was riding a motor cycle bearing Reg.No.TN.39.M.1586, a motor cycle bearing Reg.No.TN38 D 2651 belonging to the 3rd respondent herein insured with the appellant-Insurance company, driven by its rider in a rash and negligent manner, hit the deceased chandrasekar, as a result of which, he sustained grievous injury and died in the hospital.

4. While considering the compensation, the Tribunal has taken into consideration the age of the deceased as 25 and fixed monthly income of the deceased as Rs.4,000/- per month. After deducting 1/3rd of the said amount towards his personal expenses, the contribution of the deceased to the family was arrived as Rs.32,000/- per annum.

5. Applying the multiplier of 12, the loss of income was arrived at Rs.3,84,000/- (Rs.32,000 x 12). Thus, the Tribunal has awarded a sum of Rs.3,97,000/- as compensation with interest at the rate of 7.5% per annum, from the date of filing of the petition till the date of deposit to the respondent Nos.1 and 2 herein. The respondent Nos.1 and 2 are the parents of the deceased Chandrasekar. The break up of the amount awarded by the Lower Court are summarised below:-

For loss of income Rs.4,000/- x 12 = 48,000 48000 x 1/3 = 32,000 32000 x 12	Rs.3,84,000/-
For funeral expenses	Rs. 3,000/-
For loss of love and affection	Rs. 10,000/-
Total	Rs.3,97,000/-

6. Aggrieved by the impugned order, the Appellant-Insurance Company has filed the present appeal.

7. I have perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal. The Tribunal has awarded a just compensation to the respondent Nos.1 and 2. These respondents would have been entitled for further compensation under the other coventional heads, which has not

been awarded in view of the subsequent decision of the Hon'ble Supreme Court. However, in absence of an appeal and in absence of respondents, I am inclined to confirm the award.

8. The appellant-Insurance Company is therefore directed to deposit the compensation awarded together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit and cost as was directed by the Tribunal in the impugned Judgment and Decree, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. On such deposit, the claimants-respondent Nos.1 and 2 are permitted to withdraw the compensation together with interest and cost in the same proportion as was ordered by the Tribunal, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

10. In view of the above, this Civil Miscellaneous Appeal is hereby dismissed. No cost. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd/jen

To:

The Motor Accident Claims Tribunal
(Fast Track Court No.IV)
(Addl.District Judge)
Coimbatore at Tiruppur.

C.M.A.No.45 of 2010 and
and M.P.No.1 of 2010

CA (CO)

GN (27/04/2021)