

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2020

CORAM

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Civil Miscellaneous Appeal No.1024 of 2016
and
C.M.P.No.7810 of 2016

The Divisional Manager,
Reliance General Insurance Company Ltd.,
No.73, First Floor, Officers Line,
Vellore.

Appellant/2nd Respondent

vs

1.Malarkodi, aged 40 years,
W/o.Late.Mani,

2.Raja, aged 24 years,
S/o.Late.Mani,

3.Rajalakshmi, aged 20 years,
D/o.Late.Mani,
all are residing at
No.64, Phase-III,
Sathuvachari, Vellore-9.

4.Patil Ravindra Sadasiv,
S/o.Sadasiv S.Patil,
Q.5, O.No.33, First Floor,
Akash Mazil, Sixth Avenue,
Anna Nagar, Chennai - 4.

... Respondents

Prayer:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.08 of 2012 dated 25.06.2015, on the file of Motor Accident Claim Tribunal, I Additional District and Session Judge, Vellore.

For Appellant : Mr.K.Moorthy
For R1 to R3 : Mr.M.Sivakumar
For R4 : Notice unserved

JUDGMENT

(The case has been heard through video conference)

This appeal is preferred by the Insurance Company, aggrieved by the award passed by the Motor Accident Claim Tribunal, Vellore, in M.C.O.P.No.08 of 2012 dated 25.06.2015.

2. The victim while crossing the road, was hit by a car bearing Registration No.TN 02 AJ 7524, owned by the fourth respondent, insured under the second respondent. Due to the head injury, the victim went into coma and he was taken to the hospital and treated for nearly 11 months. Thereafter, he died without gaining his conscious. At the time of death, he was working as security guard in Texco, being an ex-service man.

3. The claimants are the wife and children, have sought for compensation of Rs.30,00,000/-, on the ground that the deceased was earning Rs.6500/- towards pension and Rs.10,000/-, towards salary as a security guard. They have incurred nearly Rs.10,00,000/- expense towards medical care. Therefore, for the loss of non conventional heads and actual expenses incurred, they are entitled for the sum of Rs.30,00,000/-.

4. The Tribunal, after considering the facts let in by the claimants, has awarded the sum of Rs.15,89,760/- as per the following breakup:-

Loss of income	Rs.8,80,000/-
Funeral expenses	Rs.5,000/-
Loss of love and affection	Rs.45,000/-
Medical Transportation	Rs.25,000/-
Medical Expenses	Rs.6,34,760/-
Total	Rs.15,89,760/-

Aggrieved by the said award, the present appeal has been filed both on the quantum and liability.

5. The learned counsel appearing for the Insurance Company would submit that the accident victim died after 11 months of the accident and remoteness between the accident and the death, was not taken note of the Tribunal. The death was due to Cardiac Arrest and not due to the injury sustained in the accident. Further, the sum of Rs.10,000/- as monthly income is on the higher side which requires interference of this Court.

6. On perusing the records, this Court finds that the claimants have placed the salary certificate issued by the Texco and marked as Ex.P.14 and the Bank pass book to show the pension income of the deceased person. The discharge summaries issued by the Nalam Hospital, Vellore and Ramachandra Hospital, Chennai, indicates that the victim who sustained head injury was treated by these hospitals, but throughout, he could not regain the conscious and died in coma. The submission of the learned counsel for the appellant that the death was not due to the accident, was not acceptable by the Tribunal and equally by this Court,

since the proximity of the accident and the death though may be separated by the period of 11 months, the victim has died without regaining his conscious.

7. Hence, applying proximity theory, this Court confirms the view of the Tribunal and hold that the Insurance Company is liable to pay the victim, following the principle applicable for the fatal case. Now, coming to the income part, the Tribunal has taken Rs.10,000/- as monthly income, has applied multiplier 11 and has arrived the loss of income as Rs.8,80,000/-. On taking note of the heads of compensation and total compensation awarded by the Tribunal, this Court does not find any major violation or deviation from the established guidelines given by the Hon'ble Supreme Court of India.

8. Therefore, this civil miscellaneous appeal is dismissed as devoid of merits. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

gsk

To

1. The Motor Accident Claim Tribunal,
I Additional District and Session Judge,
Vellore.
2. The Section Officer,
VR Section, High Court,
Madras.

+lcc to Mr.K.Moorthy, Advocate, S.R.No. 27249

+lcc to Mr.C.Prabakaran, Advocate, S.R.No. 27356

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C.M.A.No.1024 of 2016
and
C.M.P.No.7810 of 2016

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