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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1742 of 2013

and

M.P.No.1 of 2013

1.The Correspondent,
Vidya Vihar Matriculation School,
Pudu Govindapuram,
M.C.Road, Ambur,
Vellore District 635 802.

2.The Divisional Manager,
The United India Insurance Co. Ltd.,
MBT Road, Ranipet.

... Appellants/Respondents 1 & 4

Vs.

1.Karunamoorthi
2.Karpooragandhi
3.Surya
4.Nambiar
5.Nallthambi
6.Anbazhagan
7.C.Jayabarath

8.The Divisional Manager,
The United India Insurance Co. Ltd.,
MBT Road, Ranipet.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.84 of 2011, on the file of the Motor Accidents Claims Tribunal (I Additional District and Sessions Judge) at Vellore, dated 18.04.2012.

For Appellants : Mr.M.Krishnamoorthy

For R1 to R6 : Mr.M.Sivakumar

R7 & R8 : Given up



J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the correspondent of M/s. Vidya Vihar Matriculation School and the Insurance Company jointly against the impugned Judgment and Decree dated 18.04.2012 passed by the Motor Accident Claims Tribunal Vellore, (I Additional District and Sessions Court, Vellore), Vellore District, in M.C.O.P.No.84 of 2011.

2. The 1st to 6th respondents/claimants are the legal heirs and dependents of the deceased Kantha whose aged was declared as 58 at the time of death and in the claim petition.

3. The deceased was travelling in an auto-rickshaw bearing registration No. TN-23-AW-2622 when a school van belonging to the 1st appellant insured with the 2nd appellant insurance company collided with the auto as a result of which the deceased sustained grievous injuries and died on the spot.

4. Under these circumstances, the 1st to 6th respondents and the husband of the deceased Kantha, who died during the pendency of the claim petition, filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 before the Tribunal. They claimed a sum of Rs.5,00,000/- as compensation. In the claim petition, the Tribunal has awarded a sum of Rs.4,10,000/- holding the appellants jointly and severally liable to pay the aforesaid amount as compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit.

5. Challenging the quantum of compensation awarded by the Tribunal to the 1st to 6th respondents, the appellants have filed this Civil Miscellaneous Appeal.

6. The main ground of attack in the present appeal is that the compensation awarded based on the age of the deceased Kantha declared in the claim petition was incorrect. It is submitted that the 1st to 6th respondents have merely claimed the age of the deceased Kantha as 58 based on the age given in Exhibit P2 postmortem report and that no independent evidence has been produced by them. It is submitted that the age of the 1st respondent was admittedly 45 years in the claim petition, who is the son of the deceased Kantha, it was highly improbable that the age of the deceased would have been 58 years at the time of her death.

7. I have considered the submissions of the learned counsel for the appellants and the contesting 1st to 6th respondents/claimants.



8. The main thrust of the arguments of the learned counsel for the appellants is that compensation awarded to the 1st to 6th respondents/claimants does not commensurate with the age of the deceased Kantha considering the fact that the 1st respondent was admittedly aged 45 years even in the claim petition. It is therefore submitted that it is highly improbable that the deceased would have got married and given birth to the 1st respondent at the age of 13 years.

9. Though the argument advanced on behalf of the appellants appears to be attractive, I am unable to consider the same in view of the fact that there was prevalence of child marriage 40 years back in rural India even though such marriages were and are prohibited under the Child Marriage Restraint Act, (1929).

10. The appellants have also not produced any documents to substantiate their allegation that the deceased was more than 58 years at the time of the death. Under the circumstances, I find no merits in the present Civil Miscellaneous Appeal. Accordingly, this present Miscellaneous Appeal is liable to be dismissed.

11. At the time of admission, the appellants were directed to deposit the entire award amount of compensation together with interest accrued thereon, within six weeks from the date of receipt of a copy of the order dated 24.6.2013, to the credit of the aforesaid case before the Tribunal. Liberty was also given to the 1st to 6th respondents/claimants to withdraw 50% of the aforesaid amount on due application. In case the appellants had not deposited the aforesaid amount, appellants shall deposit the same together with interest and cost as was ordered by the Tribunal in the impugned Judgment and Decree, less already deposited if any, within a period of six weeks from today.

12. The 1st to 6th respondents are permitted to withdraw the balance amount of compensation in same proportion and condition as was ordered by the Tribunal in the impugned Judgment and Decree by filing appropriate application before the Tribunal.

13. This Civil Miscellaneous Appeal stands dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



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To:

The Motor Accidents Claims Tribunal
(I Additional District and Sessions Judge),
Vellore.

Copy To:

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

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VSN-II (CO)
SB(05/08/2021)