

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2020

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1779 of 2013

and

M.P.No.1 of 2013

The Divisional Manager,
The New India Assurance co. Ltd.,
J.N.Street, Puducherry

..... Appellant/2nd Respondent

Vs.

1. Renuka
2. Ramkumar
3. Prabu
4. Porkalai (minor)
(Rep by Mother & Next Friend Renuka)

...Respondents 1 to 3/Petitioners 1 to 3

5. Vasantha
(Set Exparte before the Tribunal)

.....4th Respondent/4th Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the Judgment made in M.C.O.P.No. 247 of 2010 dated 31.01.2013 passed by the Motor Accident Claims Tribunal (Principal District Judge) at Puducherry dated 31.01.2013.

For Appellant : Mr.M.Krishnamoorthy
For Respondents 1 -4 : Mr.P. Gunaraj

J U D G M E N T

This Appeal has been filed by the appellant/Insurance Company against the Judgment made in M.C.O.P.No. 247 of 2010 dated 31.01.2013 passed by the Motor Accident Claims Tribunal, Principal District Judge at Puducherry.

2. Brief facts of the case is as follows:

On 28.05.2009 while the deceased Sundaramoorthy was walking from Ariyankuppam to Veerampattinam road a bus bearing Registration No.PY-01-W-3915 belonging to the 5th respondent herein came behind the deceased and dragged him about 20 feet on

the road and caused his death at the spot itself. The accident has taken place due to the rash and negligent driving of the driver of the bus. Hence, the legal heirs of the deceased filed a claim petition before the Tribunal seeking Rs.16,00,000/- as compensation. Upon consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.6,55,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

3.Challenging the same as excessive and exorbitant, the appellant/ Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel appearing for the appellant / Insurance Company would contend that the Tribunal has fixed the negligence on the part of the driver of the bus, which is incorrect. He would further contend that the award passed by the Tribunal under all the heads is exorbitant, which requires interference by this Court and prays to allow this appeal.

5.Per contra, the learned counsel appearing for the respondents would submit that the Tribunal has awarded the compensation after verifying the relevant documents. The learned counsel would also submit that due to the sudden demise of the sole bread winner of the family, the other family members are put to indigent circumstances and prays to enhance the award amount.

6.The Tribunal has taken note of the fact that eventhough the Insurance company contend that the driver of the offending vehicle does not posses valid driving licence at the time of accident, but the same has not been proved by way of any evidence or documents. Hence, the Tribunal concluded that the driver of the bus is the cause for the accident. Such a finding cannot be interfered by this Court and the same is confirmed as such.

7.With regard to the quantum based on the avocation of the deceased the Tribunal has fixed Rs.5,000/- as monthly income of the deceased and calculated the annual income of the deceased as Rs.60,000/- (Rs.5,000 x 12) and deducted 1/4th of the income (Rs.60,000-Rs.15,000=Rs.45,000/-) towards the expenses of the deceased and considering the age of the deceased the multiplier to be adopted is '13' and quantified Rs.5,85,000/- (Rs.45,000 x 13) as compensation towards loss of income. The first respondent lost his loveable husband hence Rs.25,000/- is awarded towards the head loss of consortium. Considering the age of claimants Rs.30,000/- is awarded towards loss of love and affection. Apart from this Rs.7,500/-each is awarded towards funeral expenses and loss of estate. Thus, the total compensation was arrived at

Rs.6,55,000/- This Court is of the opinion that the compensation awarded by the Tribunal under different heads is just and fair and not excessive as stated by the appellant herein. In such view of the matter, the award passed by the Tribunal is perfectly valid in the eye of law.

8. In the result, the award passed by the Claims Tribunal is confirmed and this Civil Miscellaneous Appeal is dismissed. No costs. The appellant/Insurance Company shall deposit the entire compensation amount along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the respondents 1 to 3 are directed to withdraw their respective share amount/ less the amount if any already withdrawn. The amount apportioned to 4th respondent/minor shall be deposited in any one of the nationalised bank till she attains majority. The first respondent being mother of the fourth respondent is entitled to withdraw the accrued interest once in six months. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

smn

To

1.The Motor Accident Claims Tribunal
Principal District Judge
Puducherry.

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

+1 CC to Mr.M.Krishnamoorthy, Advocate sr 1343.

+1 CC to Mr.P. Gunaraj, Advocate sr 13007.

C.M.A.No.1779 of 2013
and
M.P.No.1 of 2013

RK (CO)
SP (23/11/2020)