

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1863 of 2012

(Through Video Conferencing)

M/s.Bajaj Allianz General Insurance Co. Ltd.,
Rep. By its Branch Manager,
No.1/82, Nanjammal Complex,
Mettupalayam Road,
Coimbatore.

...Appellant/3rd Respondent

Vs.

1.Selvanayaki

2.Jeyabakkiam

3.Jothiswaran

..1 to 3 Respondents/Claimants 1 to 3

4.Laksmanan

..4th Respondent/1st Respondent

5.Gnanasekar

..5th Respondent/2nd Respondent

(Respondents 4 & 5 exparte in Lower Court)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.498 of 2008 dated 02.08.2011, on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Court, Tiruppur.

For Appellant : M/s.Harini
for Mr. M.B.Gopalan

For R1 to R3 : Mr.Lokesh
for Ma.P.Thangavel

J U D G M E N T

There is no representation on behalf of the contesting 1st to 3rd respondents. The 4th and 5th respondents were set exparte before the Tribunal. Since no adverse orders are proposed to be passed against the contesting 1st to 3rd respondents, this Civil Miscellaneous Appeal is taken up for hearing and is disposed by this Judgment.

2. The Insurance Company is the appellant and is aggrieved by the impugned Judgment and Decree dated 02.08.2011, passed by

the Motor Accident Claims Tribunal, Additional Subordinate Court, Tiruppur, in M.C.O.P.No.498 of 2008.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.3,22,000/- together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit, to the 1st to 3rd respondents/claimants.

4. The 1st to 3rd respondents/claimants are the brother and sisters of the deceased Jayalashmi, who died in a motor accident. The accident is said to have taken place on 25.03.2008 at about 05.30 p.m while the deceased was travelling on a motor cycle bearing registration number TN-39-7015 as a pillion driver, driven by the 3rd respondent/3rd claimant. A car bearing registration number TN-39-AE-0055 insured with the appellant Insurance Company driven by the 4th respondent in a rash and negligent manner, hit the motor cycle, as a result of which, the deceased Jayalashmi sustained grievous injury and thereafter died in the hospital.

5. The 1st to 3rd respondents as the dependents of the deceased filed the claim petition before the Tribunal for compensation of Rs.5,00,000/-. After considering the evidence on record, the Tribunal has awarded the aforesaid compensation to the 1st to 3rd respondents/claimants.

6. Aggrieved by the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

7. The learned counsel for the appellant Insurance Company submits that the Tribunal erred in awarding compensation by ignoring the fact that the 1st to 3rd respondents/claimants were married brother and the sisters and they were not dependents of the deceased Jayalashmi.

8. I have considered the arguments advanced by the learned counsel for the appellant Insurance Company and perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

9. It is noticed that Tribunal has not awarded the compensation under the conventional heads as the claimants are married brother and sister of the deceased Jayalashmi and therefore, I do not find any reason to interfere with the impugned Judgment and Decree passed by the Tribunal. The Tribunal has also not awarded the future prospects as per the decision of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 as the said Judgment had not pronounced by then.

10. In the light of the above, the present Civil Miscellaneous Appeal is liable to be dismissed. Therefore, if the amount of compensation awarded by the Tribunal has not been deposited by the appellant Insurance Company, it is directed to deposit the same together with interest as was directed by the Tribunal in the impugned Judgment and Decrees, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment.

11. On such deposit, the 1st to 3rd respondents/claimants are permitted to withdraw the same together with interest and cost in the same proportion as was directed by the Tribunal in the impugned Judgment and Decree, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

12. This Civil Miscellaneous Appeal is dismissed. No cost.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

jen
To

1. The Motor Accidents Claims Tribunal,
Additional Subordinate Court, Tiruppur.

2. The Section Officer
VR Section
High Court, Madras 104.

CP(CO)
SP(22/04/2021)

C.M.A.No.1863 of 2012

सत्यमेव जयते

WEB COPY