

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-07-2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.2441 of 2015

And

M.P.No.1 of 2015

- 1.United India Insurance Co. Ltd.,
Regional Office,
Dr.Nanjappa Road,
Coimbatore. .. First Appellant/R-3
- 2.United India Insurance Co. Ltd.,
Regional Office,
Dr.Nanjappa Road,
Coimbatore. .. Second Appellant/R-6
- vs.
- 1.Misril Jaiswal .. R-1/First Petitioner
- 2.Sheela Devi Jaiswal .. R-2/Second Petitioner
- 3.Thangavel .. R-3/R-1
- 4.M/s.RGB Construction,
Office at Arumugam Lay-out,
Mahalingapuram,
Pollachi. .. R-4/R-2
- 5.M.Vijayan .. R-5/R-4
- 6.J.Sangeetha .. R-6/R-5

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.09.2013 passed in M.C.O.P. No.2252 of 2012 on the file of the learned Special Sub Judge, Special Sub Court-cum-Motor Accidents Claims Tribunal, Coimbatore.

For Appellants	:	Ms.I.Malar
For Respondents 1&2	:	Mr.D.Muthu
For Respondents-3 to 6	:	Given up

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J U D G M E N T

The judgment and decree dated 20.09.2013 passed by the learned Special Sub Judge, Special Sub Court-cum-Motor Accidents Claims Tribunal, Coimbatore in M.C.O.P. No.2252 of 2012 is under challenge in the present Civil Miscellaneous Appeal.

2. The accident occurred on 30.08.2010 at 12.15 P.M. in Coimbatore - Trichy Road near Aandal Kalyana Mandapam in front of Anand Wood Furniture Shop.

3. It is a case of fatal accident and the deceased was aged about 17 years. The father and mother of the deceased are the claimants. The total amount of compensation claimed was Rs.15 lakhs and the Tribunal awarded a total compensation of Rs.5,20,000/-.

4. The learned counsel appearing on behalf of the appellants-United India Insurance Company mainly contended that there was no documentary evidence to show that the accident occurred due to rash and negligent driving of the driver of the lorry bearing Registration No.TN-41-Q-6018. The deceased was a pillion rider and therefore, the Tribunal has not considered these aspects.

5. The question of loss of income does not arise in the absence of any material to show that there was a loss of income. The Tribunal has not considered these aspects and awarded compensation.

6. The learned counsel appearing on behalf of the respondents-claimants disputed the grounds by stating that the Tribunal considered all these aspects and considered the negligent aspect and awarded compensation. Thus, there is no infirmity and the civil miscellaneous appeal is liable to be dismissed.

7. The Tribunal considered the documents and evidences. The first petitioner was examined himself as PW-1 and Mr.Ramesh Kumar Jaiswal was examined as PW-2. 13 documents were marked through PW-1 as Exs.P-1 to P-13 and two documents were marked through PW-2 as Ex.P-14 and Ex.P-15. On the side of the contesting respondents, there was no oral and documentary evidences.

8. Under these circumstances, the contention of the appellants in the present civil miscellaneous appeal deserves no

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merit consideration. The Tribunal considered all these documents and arrived a conclusion that the accident occurred due to rash and negligent driving of the lorry driver and the Tribunal relied on the Postmortem Certificate Ex.P-6 and the oral evidence given by PW-1 and PW-2 and these documents and the evidences reveal that the driver of the lorry, at the time of accident, was driving the vehicle in a rash and negligent manner and a case was registered in Crime No.280 of 2010 by the Traffic Investigation Wing (East) Police Station under Sections 279, 337 and 304-A of IPC. A charge sheet was filed in the criminal case as against the first respondent in the MCOP and all related documents were also examined by the Tribunal.

9. As far as the quantum of compensation is concerned, the deceased was a bachelor and the parents are the dependents. Considering this aspect, compensation for loss of dependency was awarded at Rs.3,90,000/- and the total compensation awarded by the Tribunal was at Rs.5,20,000/-. This Court do not find any excessive award of compensation by the Tribunal and the compensation awarded by the Tribunal is to be construed as just and proper. Thus, this Court is not inclined to interfere with the award of compensation by the Tribunal and consequently, the judgment and decree dated 20.09.2013 passed by the learned Special Sub Judge, Special Sub Court-cum-Motor Accidents Claims Tribunal, Coimbatore in M.C.O.P. No.2252 of 2012 stands confirmed and C.M.A.No.2441 of 2015 is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

10. The appellant-Insurance Company is directed to deposit the entire Award amount with accrued interest, if not already deposited, within a period of 12 weeks from the date of receipt of a copy of this judgment and on receipt of such deposit, the claimants are permitted to withdraw the award amount as per the Award of the Tribunal by filing appropriate applications and the payments are to be made only through RTGS.

Sd/-

सत्यमेव जयते
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Special Sub Judge,
Special Sub Court-cum-Motor Accidents Claims Tribunal,
Coimbatore.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.

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