

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.1594 of 2016

And

C.M.P.No.12034 of 2016

Reliance General Insurance Co. Ltd.,
Branch Office at Shri Lakshmi Complex,
1st Floor, Bharathi Street,
Omalur Main Road,
Swarnapuri,
Salem-4.

... Appellant/R-2

vs.

1.Parameshwari	...	R-1/P-1
2.Saranya	...	R-2/P-2
3.Hari Narayanan	...	R-3/P-3
4.Govindaraj Gounder	...	R-4/P-4
5.Govindammal	...	R-5/P-5
6.D.Mahendra	...	Exparte before the Tribunal

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 27.01.2016 passed in M.C.O.P.No.1323 of 2011 on the file of the learned Special District Judge, Special District Court-cum-Motor Accidents Claims Tribunal, Salem.

For Appellant : Mr.S.Arun Kumar

For Respondents-1to5 : Mr.A.Murugan

For Respondent-6 : No Appearance

J U D G M E N T

The present Civil Miscellaneous Appeal is filed against the judgment and decree dated 27.01.2016 passed by the learned Special District Judge, Special District Court-cum-The Motor Accidents Claims Tribunal, Salem in M.C.O.P.No.1323 of 2011.

2. The accident occurred on 12.12.2010 at 20.15 hours near Pannapatty X Road. The Deevattipatty Police Station registered a case in Crime No.528 of 2010 under Sections 279, 338 and 304(A) of IPC.

3. The learned counsel appearing on behalf of the appellant contended that the present appeal is preferred, challenging the quantum of compensation awarded by the Tribunal and more specifically, the huge compensation amount of Rs.25,85,840/- awarded by the Tribunal is not in consonance with the provisions of the Motor Vehicles Act, 1988.

4. The Tribunal has not considered the source of salary as loss for entire 11 years and ought to have followed the settled multiplier method. The Tribunal has committed an error in granting 15% towards future prospects contrary to the judgment of the Courts. At the outset, it is contended that the percentage of compensation is on higher side, which requires interference by this Court.

5. The findings of the Tribunal reveals that the deceased was working as Assistant Foreman in Tamil Nadu Newsprint and Papers Ltd (T.N.P.L.) and he is an Income Tax Assessee. The PAN Card was marked as a document and at the time of the accident, the deceased was aged about 52 years. The salary certificate of the deceased was marked as Ex.P-7 and his monthly salary was Rs.27,019/- per month. Therefore, the Tribunal has considered the issues with reference to the salary certificate produced by the claimants as well as considering the fact that the deceased was an Income Tax Payer and accordingly, fixed the monthly income of the deceased and granted compensation.

6. The Tribunal has considered the other aspects regarding the dependents and loss of love and affection and loss of future income and also the future prospects. Considering all these factors, a total sum of Rs.25,85,840/- towards compensation was awarded by the Tribunal.

7. Perusal of the entire findings of the Tribunal reveals that the death occurred on account of the accident and the deceased was an Income Tax Assessee and worked as Assistant Foreman in the Tamil Nadu Newsprint and Papers Limited (T.N.P.L.), which is a Government of Tamil Nadu Undertaking and accordingly, the Tribunal considered the documents and fixed the compensation.

8. This Court do not find any perversity or infirmity regarding the manner in which the Tribunal arrived a conclusion for fixing the compensation of Rs.25,85,840/- and therefore, the

said compensation is to be construed as just compensation and in consonance with the legal principles. Thus, the judgment and decree dated 27.01.2016 passed by the learned Special District Judge, Special District Court-cum-The Motor Accidents Claims Tribunal, Salem in M.C.O.P.No.1323 of 2011 is confirmed and consequently, C.M.A.No.1594 of 2016 stands dismissed. However, there shall be no order as to costs. The connected miscellaneous petition is also dismissed.

9. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interest, after deducting the amount, if any, already deposited, within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the respondents/claimants are permitted to withdraw the said award amount with accrued interest by filing appropriate applications before the Tribunal and the Tribunal is directed to pay the award amount with accrued interest to the respondents/claimants only through RTGS.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Svn

To

The Special District Judge,
Special District Court-cum-
The Motor Accidents Claims Tribunal,
Salem.

Copy To

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

+1cc to Mr.S.Arunkumar, Advocate, S.R.No. 19356
+1cc to Mr.A.Murugan, Advocate, S.R.No.19609

CMA No.1594 of 2016

RJI (CO)
GN(23/11/2020)