

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.347 of 2015

M/s. United India Insurance Co. Ltd.,
3rd party Motor Claim Cell,
No.38, Anna Sali, Chennai - 2.

...Appellant/2nd Respondent

/versus/

1. Munisubba Reddy

2. Munikrishnan

3. Madhusudanan

4. Prabhu

5. Dharani

6.D.Nagappan

... 1 to 5 Respondents / Petitioners

...Respondents/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act pleaded against the Judgement and Decree made in M.C.O.P.No. 603 of 2005, on the file of the Motor Accident Claims Tribunal (Sub Court), Ponneri, dated 05.04.2007.

For Appellant : M/s.N.Mala

For Respondents: No appearance

J U D G M E N T

(The case has been heard through video conference)

The appeal is filed by the Insurance Company challenging the award passed by the Tribunal in M.C.O.P.No.603 of 2005 filed by the dependants of the accident victim Mrs.Banumathi, aged 40 years. As per the claim petition, while the deceased Banumathi was travelling in the two wheeler on the pillion along with her brother Chandra Sekaran, a Tata sumo bearing Reg.No.TN 20 V 9258 proceeding from Thandalam to Periyapalayam driven by its driver in high speed, rash and negligent manner hit the two wheeler, near Revathy agency Petrol bunk. In the said accident, both the rider Chandra sekar as well as the pillion rider Mrs.Banumathi died.

2. This appeal is preferred against the award passed by the Tribunal in the claim petition filed by the dependants of Mrs.Banumathi.

3. The Tribunal taking note of the evidence placed before it, had fixed the income of the deceased at Rs.4,000/- per month, as against the claim of the claimants that she was earning a sum of Rs.7,000/- through milk business. Similarly fixed her age as 40 based on the Post Moterm Report. Multiplier 16 was applied for computing the Loss of income. After deducting 1/3 towards the personal expenditure, a sum of Rs.5,18,400/- was paid for loss of income. Rs.10,000/- for loss of consortium for the first claimant, Rs.5,000/- for Transport charges, Rs.15,000/- for Mental agony, Rs.15,000/- for loss of love and affection in so far as the claimants 2 to 5 and Rs.15,000/- for loss of estate and Rs.10,000/- for Funeral Expenses in total a sum of Rs.5,88,000/- was awarded by the Tribunal.

4. In this appeal preferred by the Insurance Company, it is contended that the annual income of the deceased ought to have been notionally fixed at Rs.15,000/- and the multiplier should have been fixed based on the age of the claimants. Both the contentions raised in the appeal lacks merit. The deceased is a home maker and during the relevant point of time, the Courts have held that home maker's contribution for the family has to be assessed not less than Rs.4,000/- per month.

5. Further, this Court finds that the Tribunal has not taken note of Future prospects of the deceased. But, the compensation awarded for consortium and love and affection is moderate and not excessive as alleged in the appeal. Therefore, this Court holds that though the notice to the respondents could not be served for various reasons, it is not necessary to keep the matter pending. In view of the fact that there is nothing to interfere with the award of the Tribunal.

6. In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The Subordinate Judge,
The Motor Accident Claims Tribunal (Sub Court),
Ponneri,

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

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SSD(CO)
RMP(04/05/2021)



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