IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.534 of 2016
C.M.P.No.4421 of 2016

M/s.United India Insurance Company Limited
By its Manager,
Branch Office-III,
Arjuna Towers,
No.248/164, Cherry Road,
Salem. ...Appellant /2nd Respondent

Vs.

1.Subramani

2.Lakshmi ..1 & 2 Respondents/Petitioners 1 & 2

3.Krishnamoorthy ...Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 30.04.2015 made in M.C.O.P.No.143 of 2014, on the file of the Motor Accidents Claims Tribunal (District Judge), Krishnagiri.

For Petitioner : Mr.J.Chandran

For Respondents : Mr.J.Pradeep for RR1 & R2
Non-appearance for R3

J U D G M E N T

The United India Insurance Company Limited filed this appeal mainly on the ground that the quantum of compensation granted is ex-orbitant. The Tribunal awarded a sum of Rs.11,68,000/- as total compensation.

2. The learned counsel appearing on behalf of the appellant is of the opinion that income of Rs.9,000/- per month fixed by the Tribunal is excess and the deceased was working as a Building Mason and therefore, it would be appropriate, if a sum of Rs.7,500/- fixed per month.

3. The learned counsel appearing on behalf of the respondents/claimants objected the same on the ground that the deceased was aged about 19 years and he was working as Building Mason and the accident occurred in the year 2013. Therefore, the monthly income of Rs.9000/- cannot be said to be unreasonable and in fact, he was earning more than the said amount fixed by the Tribunal.

4. The accident occurred on 04.12.2013 at about 20.15 hours in Kaveripattinam to Krishnagiri road opposite Sarojini Theater. The deceased sustained fatal injuries and died at the hospital on 07.12.2013 and the claimants are the parents. It is stated that the deceased was the sole breadwinner of the family and he was looking after the parents. Taking note of all these factors, the Tribunal fixed the monthly income of Rs.9,000/- for the purpose of calculating the quantum of compensation to be paid. The factum regarding the accident was established and the Insurance Company is made liable to pay compensation. As far as the insured vehicle is concerned, the deceased was a third party and therefore, the Tribunal has right in fixing the liability on the Insurance Company to pay compensation. In fact, the Tribunal has not granted any future prospects. Under these circumstances, further rejection of monthly income would not be appropriate, therefore, this Court is inclined to review the quantum of compensation already granted and the compensation of Rs.11,68,000/- cannot be construed as unjust and improper.

5. This being the factum, the judgment and decree dated 30.04.2015 passed in M.C.O.P.No.143 of 2014 is confirmed and consequently, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

6. The appellant has already deposited the entire amount and 50% of the award amount had already been withdrawn. Thus, the first and second respondents are permitted to withdraw the balance amount with accrued interest by filing appropriate application and the payments are to be made through RTGS.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

ssb

To

1.The Motor Accidents Claims Tribunal
(District Judge), Krishnagiri.

Copy to:
The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.J.Pradeep, Advocate, S.R.No.23493
+1cc to Mr.J.Chandran, Advocate, S.R.No.23755

C.M.A.No.534 of 2016

PP(CO)
CB(11/10/2021)