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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2020

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.M.A.No.336 of 2017

The Oriental Insurance Co. Ltd.,
Represented by its Divisional Manager,
Having its office at,
Katpadi Road,
Vellore-632 004.

...Appellant/2nd Respondent

versus

1.Indirani
2.C.Sivakumar
3.C.Vetrivel
4.Sivagami
5.N.Prabhu

...Respondents 1 to 4/Petitioners

...5th Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 20.04.2016 passed in M.C.O.P.No.26 of 2007 on the file of the Motor Accidents Claims Tribunal, (Ist Additional District and Sessions Judge) at Vellore District.

For Appellant : Mr.J.Chandran

For Respondents: Mr.S.Dakshinamurthy for R1 to R4
: No Appearance for R5

J U D G M E N T

Heard the learned counsel appearing for the appellant and the learned counsel for the respondents 1 to 4/claimants. There is no representation for 5th respondent.

2. The learned counsel appearing on either side have some consensus in this matter. This Civil Miscellaneous Appeal is preferred by the Insurance Company as against the award passed by the Motor Accidents Claims Tribunal, (Ist Additional District and Sessions Judge) at Vellore in M.C.O.P.No.26 of 2007.



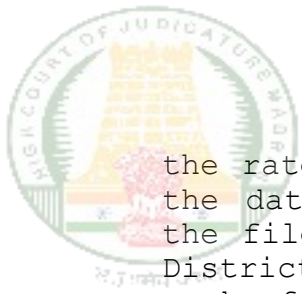
3. The respondents are the dependants of the deceased by name Chinnasamy. On 05.11.2005, at 9.30 p.m., while the deceased was walking along Cuddalore-Chittoor road towards north on the left side of the road near Kannamangalam bridge, a motor cycle bearing Registration No.TN-23-H-8197 dashed against the deceased Chinnasamy in a rash and negligent manner. Due to the accident, the deceased Chinnasamy sustained grievous injury and he was admitted in Government Hospital, Vellore for treatment and he died on 06.11.2005. Hence, the claimants have filed the claim petition before the Tribunal claiming compensation of Rs.5,00,000/-.

4. The Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the vehicle owned by 5th respondent, who had insured the vehicle with the Appellant / Insurance Company. However, after considering the evidence placed before the Tribunal, the Tribunal awarded a sum of Rs.3,31,000/- as compensation to the claimants. Aggrieved by the same, the Insurance Company has preferred this Appeal.

5. Though the Insurance Company raised many grounds, considering the facts and circumstances and the evidence adduced before the Tribunal, the learned counsel appearing for the appellant and the learned counsel appearing for the respondents have agreed that a sum of Rs.3,000/- can be taken as monthly income of the deceased. Since the deceased was aged 74 years, both the counsels agreed that multiplier that can be applied is 5. The learned counsels also agreed to grant a sum of Rs.74,000/- towards loss of consortium and other formal heads as per the decision of Hon'ble Supreme Court in National Insurance Co. Ltd., vs Pranay sethi and others reported in 2017 (2) TNMAC 601 (SC). Thus, calculating compensation, by taking a sum of Rs.24,000/- as notional annual income, after deduction, a sum of Rs.1,20,000/- (Rs.24,000/- X 5) can be given towards loss of income. Adding further compensation under formal heads, claimants are entitled to a sum of Rs.1,94,000/- as compensation.

6. Accordingly, this Civil Miscellaneous Appeal is allowed and the award of the Tribunal in M.C.O.P.No.26 of 2007 dated 20.04.2016 passed by the Motor Accident Claims Tribunal (1st Additional District and Sessions Judge) at Vellore is set aside and modified by awarding a sum of Rs.1,94,000/- as compensation to the respondents/claimants, who are the dependants of the deceased.

7. The Appellant / Insurance Company Ltd., is directed to deposit the compensation amount i.e., Rs.1,94,000/- (less the amount already deposited if any) together with interest at



the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.26 of 2007 on the file of the Motor Accident Claims Tribunal / 1st Additional District and Sessions Judge, Vellore, within a period of four weeks from the date receipt of a copy of this Judgment. On such deposit being made, the respondents 1 to 4 / claimants are at liberty to withdraw the same as per the Orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal is kept intact. The respondents are entitled to interest at 7.5% per annum from the date of petition till date, the amount is deposited. No costs.

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

ssn
To

1. The Motor Accidents Claims Tribunal,
(1st Additional District and Sessions Judge),
Vellore District.

Copy to
The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.J.Chandran, Advocate sr 37984
+1 Cc to Mr.S.Dakshinamurthy, Advocate sr 37835.

C.M.A.No.336 of 2017

GJ(CO)
SP(17/08/2021)