

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED.15.09.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1563 of 2008 &
M.P.No.1 of 2008

National Insurance Company Limited,
No.23/88-F, Bypass Road,
Dharmapuri

... Appellant

vs.

1.Kamala
2.Gunasekaran
3.Ravikumar
4.Ramu

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree made in MACTOP.No.321 of 2003 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Dharmapuri dated 29.06.2007

For Appellant : Mr.M.Krishnamoorthy
For Respondents : No appearance for R1 to R3

R4 - Exparte

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This Appeal has been filed by the Insurance company challenging the award dated 29.06.2007 passed by the Motor Accident Claims Tribunal (Subordinate Judge, Dharmapuri) in MCOP.No.321 of 2003.

2. The Motor Accident Claims Tribunal under the impugned award directed the Appellant Insurance company to pay the respondents 1 to 3 who are the claimants, a compensation of Rs.2,37,000/- together with interest and costs for the death of Chinnaiya as a result of an accident which took place on 24.08.2003 caused by a vehicle insured with the Appellant.

3. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

Heads	Award Amount (Rs.)
Loss of dependency	2,00,000/- (5000 x 12 = 60000 - 1/3 = 40000 x 5)
Funeral Expenses	5,000/-
Transportation Charges	5,000/-
Loss of consortium	15,000/-
Loss of love and affection	10,000/-
Other expenses	2,000/-
Total	2,37,000/-

4. The Appellant has preferred this appeal only on the ground that the quantum of compensation awarded by the Tribunal is excessive.

5. Before the Tribunal, the claimants have filed seven documents which were marked as Ex.A1 to Ex.A7 and two witnesses were examined on their side namely, Kamala, the wife of the deceased who is the first respondent herein as PW1 and an eye-witness to the accident as PW2. On the side of the Appellant/ insurance company neither any document was filed nor any witness examined, before the Tribunal.

6. The accident happened on 24.08.2003. The deceased Chinnaiya was aged 63 years and in the claim petition, the claimants have claimed that the deceased was running a petty shop. The claimants have made a claim of Rs.5,00,000/- before the Tribunal. The Tribunal has fixed the notional monthly income of the deceased at Rs.5,000/-. However, the Tribunal has adopted wrong multiplier of 5 instead of 7 which is the correct multiplier to be adopted, since the age of the deceased was 63 years at the time of the accident.

7. The Tribunal has awarded a compensation of Rs.5,000/- towards funeral expenses, Rs.5,000/- towards transportation, Rs.15,000/- towards loss of consortium, Rs.10,000/- towards loss of love and affection and Rs.2,000/- towards other expenses. If the Tribunal had adopted the correct multiplier of 7 as per the Judgment of the Hon'ble Supreme Court in the case of Sarla Verma vs. Delhi Transport Corporation reported in 2009 (2) TNMAC 1 SC and awarded higher compensation under various other heads as per the settled practice, the compensation awarded by the Tribunal would have been much higher. Since the claimants have not preferred any appeal seeking for enhancement, the same

cannot be considered by this Court now. Even if the assessment of notional monthly income of the deceased by the Tribunal at Rs.5,000/- is accepted to be on higher side as alleged by the Appellant in this Appeal, the overall compensation awarded under the impugned award cannot be considered to be excessive.

Conclusion:

8. For the foregoing reasons, there is no merit in this appeal. Accordingly, the Appeal shall stand dismissed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The Appellant insurance company is directed to deposit the amount awarded by the Tribunal along with interest and cost, after deducting the amount already deposited if any to the credit of MCOP.No.321 of 2003 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of the award amount along with accrued interest lying to the credit of MCOP.No.321 of 2003 to the bank accounts of the claimants/respondents 1 to 3 through RTGS within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

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To,

The Motor Accident Claims Tribunal (Subordinate Judge) at
Dharmapuri

Copy to:

The Section Officer, VR Section, High Court, Madras.

C.M.A.No.1563 of 2008

A.SK(17.03.2021)

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