



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2020

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.M.A.NO.2534 OF 2017

IFFCO - TOKIO

General Insurance Company Ltd.,
No.28, O.No.195,
North Usman Road, T.Nagar,
Chennai - 600 017.

... Appellant

Versus

1. Bhoopathy
2. Chitra

3. M/s.Harsha Automobiles Pvt. Ltd.,
Survey No.92, Door No.142-A,
Poonamallee High Road,
Velappanchavadi,
Chennai - 600 077.

... Respondents

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal order made in M.C.O.P.No.2321 of 2013 dated 19.10.2016 on the file of the Motor Accidents Claims Tribunal (IV Court of Small Causes), Chennai.

For Appellant : Ms.K.Saraswathi

For Respondents 1 & 2 : Mr.J.Ramkumar

Respondent 3 : Ex-parte

J U D G M E N T

Aggrieved by the award of the Motor Accident Claims Tribunal namely the IV Judge of Small Causes, Chennai, in M.C.O.P.No.2321 of 2013, the above appeal has been preferred by the insurance company challenging the quantum.



2. In this case, the minor son of the first and second respondents died. As against the claim of Rs.6,00,000/-, the Tribunal awarded a sum of Rs.9,45,000/- as compensation. It is to be noted that the deceased was a six months baby. The deceased, while sleeping on the platform at the junction of 2nd Line Beach road, was ran over by a car which was driven by the driver of the third respondent in a rash and negligent manner. It is appropriate to notice that the parents of the deceased namely the claimants are only coolies and that they have no permanent residence on their own at the time of accident. With the economic standard in which the claimants were living at the time of accident, this Court is unable to conceive any huge amount as the income of the baby, as if she would have earned that much when she grows up. The claim itself is for a sum of Rs.6,00,000/-. The Tribunal fixing notional income at Rs.5,000/- per month, awarded a larger sum of Rs.9,45,000/- as compensation.

3. It is true that the claimants have lost their lovable son and the accident was due to the rash and negligent driving of the driver of the third respondent. However, keeping in mind the economic status of the claimants, this Court is inclined to take Rs.3,000/- per month as the notional income of the deceased. The claimants are also entitled to a sum of Rs.1,00,000/- towards loss of love and affection/consortium and a further sum of Rs.25,000/- towards funeral expenses. In all, the claimants are entitled to a sum of Rs.7,73,000/- (Rupees Seven Lakh Seventy Three Thousand Only). The insurance company is directed to deposit the modified compensation amount of Rs.7,73,000/-, along with interest at 7.5% per annum from the date of claim petition till the date of realisation, within a period of eight weeks from the date of receipt of copy of this judgment, after deducting the amount already deposited, if any. On such deposit being made, the claimants are permitted to withdraw the modified compensation of Rs.7,73,000/- with interest.

4. The Civil Miscellaneous Appeal is allowed and the award of Motor Accidents Claims Tribunal (IV Court of Small Causes), Chennai, in M.C.O.P.No.2321/2013 dated 19.10.2016, is modified to the extent indicated above.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bkn



To

1. The IV Court of Small Causes,
(Motor Accidents Claims Tribunal),
Chennai.

WEB COPY

2. The Section Officer,
V.R. Section,
High Court, Chennai.

+1cc to Mr.C.R.Krishnamoorthy, Advocate, S.R.No.40570

C.M.A.NO.2534 OF 2017

AD(CO)
PBS/26/10/2021