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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 09.10.2020
CORAM
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
C.M.A(MD) No.426 of 2007
and
M.P. (MD)No.1 of 2007

The United India Insurance Company Limited,
Divisional Office,
No.2, Sankaran Road,
Namakkal

.. Appellant/Second Respondent in M.C.O.P

vs.

1.Govindan
2.Saroja

3.Minor Ramamoorthi
(Third respondent being minor, represented by his father and next friend, the first respondent herein Govindan)

...Respondents 1 to 3/Petitioners 1 to 3 in
M.C.O.P

4.C.Kulandaivel .. Respondent No.4/Respondent No.1 in
M.C.O.P.

5.R.Maruthamuthu ...Respondent No.5/Respondent No.3 in
M.C.O.P.

6.M/s.National Insurance Company Limited,
Jerome Buildings,
Fort Station Road,
Trichy-2 ...Respondent No.6/Respondent No.4 in
M.C.O.P.

7.Yogammal ...Respondent No.7/Respondent No.5 in
M.C.O.P.

8.M/s.National Insurance Company Limited,
Jerome Buildings,
Fort Station Road,
Trichy-2 ...Respondent No.8/Respondent No.6
in M.C.O.P

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the judgment and Decree made in M.C.O.P.No.1561 of 2002 dated 27.10.2003, on the file of the Motor Accident Claims Tribunal, III Additional Sub-Court, Tiruchirappalli.

For Appellant : A.Joseph Jawahar
For Respondent-7 : Mr.K.Rajasekaran
For Respondents : Mr.J.S.Murali
6 and 8

<https://hcservices.ecourts.gov.in/hcservices/R5> : No appearance

**J U D G M E N T**

Challenging the award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.1561 of 2002, dated 27.10.2003, the appellant/Insurance Company has filed this appeal.

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2. Brief facts of the case are that on 26.03.2001 at 2.30 a.m when the deceased Sivakumar in the above M.C.O.P and other claimants in the connected claim petitions standing in the left side of the road near Tiruchy-Lalkudi Main Road after loading flowers in the Tractor bearing Registration No.45V 0304, owned by the seventh respondent herein and insured with the 8th respondent and at that time, the lorry bearing Registration No.TCE 6723, owned by the first respondent and insured with the appellant herein, which came in the opposite direction, driven by its driver in a rash and negligent manner, dashed against the claimants and in the said accident, the the said Sivakumar died and other claimants have sustained multiple injuries all over the body. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the lorry, legal heirs, namely, the parents and brother of the deceased Sivakumar laid a petition, claiming compensation of Rs.10,00,000/-.

3. Resisting the claim, the appellant Insurance Company filed their counter disputing the manner of accident, age, avocation and income of the deceased and its liability to pay the compensation.

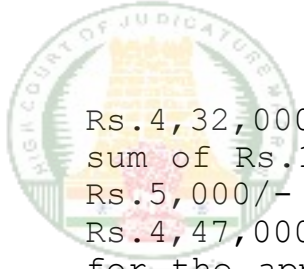
4. All the claim petitions were tried together by the Tribunal and to substantiate the case, on the side of the claimants P.W.1 to P.W.11 were examined and Ex.P1 to Ex.P23 were marked. No witness was examined and no documents were marked on the said of the appellant/Insurance Company.

5. The Tribunal, after considering the oral and documentary evidence held that the driver of the appellant Insurance Company was responsible for the accident and awarded compensation of Rs.4,47,000/- along with interest at the rate of 9% p.a. Challenging the award, the appellant has filed the present appeal.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. The appellant insurance company has filed this appeal only challenging the quantum and they have not disputed the manner of accident and their liability. Hence, it is not necessary to elaborate on other aspects.

8. A Perusal of the judgment would show that the Tribunal after considering the post-mortem Certificate and the evidence of the claimant held that the deceased died at the age of 27 years and his monthly income was Rs.3,000/-. After deducting the personal expenses of the deceased, the tribunal has awarded a sum of



Rs.4,32,000/- to the claimants towards loss of income and another sum of Rs.10,000/- towards loss of love and affection and a sum of Rs.5,000/- towards funeral expenses and totally awarded a sum of Rs.4,47,000/- with interest at 9% p.a. Though the learned counsel for the appellant Insurance company has contended that the award is on the higher side and it requires reduction, this Court is of the view that the Tribunal has awarded a just and reasonable compensation.

9. In that view, the Civil Miscellaneous Appeal is dismissed, as devoid of merits. Since the appeal is dismissed, the appellant is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw their share in the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs, as per the ratio of apportionment made by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsn

To

The III Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Tiruchirappalli.

Copy to: The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2)

+1 CC to Mr.J.S.MURALI, Advocate (SR-19803[F] dated 12/10/2020)

JUDGMENT MADE IN
C.M.A(MD) No.426 of 2007
and
M.P. (MD) No.1 of 2007
09.10.2020

KMK (CO)

CS(09.11.2020) 3P 5C