

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.678 of 2016

and

CMP No.5501 of 2016

United India Insurance
Company Limited,
Divisional Office,
Namakkal.

.... Appellant / 2nd Respondent
versus

1. Pappayee
2. Rajeswari
3. Tamilarasi
4. Boomisekar
5. Minor - Roobak
6. Minor - Rahasree
(Minors R5 & R6 Rep.by Guardian for the R4)
7. Selvamani ...Respondents 1 to 6/ Petitioners 1 to 6

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 09.09.2014 in MCOP No.1514 of 2012 on the file of the Motor Accident Claims Tribunal (Special District Judge, Salem).

For Appellant : Ms.R.Sreevidhya

For Respondents : Mr.R. Neelakandan for R1 to R6
R5 & R6 - Minors represented
by R4
R7 - Served - No appearance

JUDGMENT

This appeal has been filed by the Insurance Company challenging the award dated 09.09.2014 passed by the learned Special District Judge, Motor Accident Claims Tribunal at Salem

in MCOP No.1514 of 2012.

2. The Tribunal under the impugned award directed the appellant / Insurance Company to pay the respondents / claimants a compensation of Rs.5,05,200/- together with interests and costs as detailed below :-

Heads	Amount awarded by the Tribunal (Rs.)
Loss of income	4,00,200
Funeral expenses	25000
Loss of love and affection to petitioners 2,3 and 4 (each Rs.20,000/-	60000
Loss of love and affection to petitioners 5 and 6 (each Rs.10,000/-	20,000/-
Total	5,05,200/-

3. The appellant / Insurance Company has challenged the impugned award only on the ground that the quantum of compensation awarded by the Tribunal is excessive.

4. Heard Ms.R.Sreevidhya, learned counsel for the appellant and Mr.R.Neelakandan, learned counsel for the respondents 1 to 6. Despite service of notice on the 7th respondent, there is no representation on his side.

5. This Court has perused and examined the impugned award before the Tribunal.

6. The first respondent is the wife of the deceased; the second respondent is the widowed daughter (first daughter) of the deceased; the 3rd respondent is the second daughter of the deceased; the 4th respondent is the son of the deceased and the 5th and 6th respondents are the grand children (minors) of the deceased, born to the widowed daughter (2nd respondent.) In the claim petition filed by the respondents/claimants before the Tribunal, they have pleaded that the deceased Chinnusamy was aged 63 years and was an Agriculturist as well as a Partner in

M/s.Renuka Rig services earning Rs.50,000/-p.m.

7. Before the Tribunal, the respondents / claimants have filed 13 documents, which were marked as Exs.A1 to A13 and two witnesses were examined on their side viz., 1st respondent / 1st claimant, the wife of the deceased as PW1 and an eye witness to the accident as PW2. On the side of the appellant / Insurance Company neither any document has been filed nor any witness has been examined before the Tribunal.

8. The respondents / claimants have filed Patta (Ex.P6) to substantiate their claim that the deceased was the owner of the agricultural lands measuring an extent of 11 acres and they have also filed the partnership deed which has been marked as Ex.A10 to substantiate their claim that the deceased was a Partner in M/s.Renuka Rig Services as pleaded in the claim petition filed by the respondents. The Tribunal after giving due consideration to the materials and evidence available on record has fixed the notional monthly income of the deceased at Rs.10,000/-. The accident happened on 05.09.2012. No contra evidence has been produced by the appellant / Insurance Company before the Tribunal to disprove the avocation of the deceased.

9. The Tribunal under the impugned award has given due consideration to the Patta as well as the Partnership deed which were marked as Exhibits and fixed the monthly income of the deceased at Rs.10,000/-. This Court after giving due consideration to the year of the accident as well as the avocation of the deceased and the pleadings made by the respondents / claimants is of the considered view that the assessment of the monthly income of the deceased at Rs.10,000/- by the Tribunal is a correct assessment and does not call for any interference.

10. The Tribunal has also given due consideration to the fact that the second respondent / second claimant is a widowed daughter of the deceased and the respondents 5 and 6 are minor children born to the widowed daughter and the grand children of the deceased and only thereafter has awarded a total compensation of Rs.5,05,200/- under various heads. In fact, the Tribunal has not even awarded compensation towards loss of estate though the respondents / claimants duly entitled for the same. After giving due consideration to the aforementioned factors, this Court is

of the considered view that the overall compensation awarded by the Tribunal to the respondents / claimants is a just compensation and cannot be considered to be excessive as alleged by the appellant / Insurance Company.

11. For the foregoing reasons, this Court does not find any merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.1514 of 2012 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem, 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 award amount directly to the bank account of the respondents 1 to 4 / major claimants, as per the same ratio of apportionment made by the Tribunal, through RTGS, within a period of two weeks thereafter. Insofar as the share of the fifth and sixth respondents / minor claimants are concerned, the same shall be deposited in Fixed deposit in any one of the Nationalised Banks, till they attain the age of majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimants once in three months, directly from the Bank.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To :

1.The Special District Judge,
Motor Accident Claims Tribunal
Salem.

2.The Section Officer,
V.R. section,
High Court, Madras - 104.

+1cc to M/s.Sreevidhya, Advocate, S.R.No.26861
+1cc to M/s.Neelakandan, Advocate, S.R.No.26441

C.M.A. No.678 of 2016

RT(CO)
SB(11/11/2021)