



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.2891 of 2014

and

M.P No.1 of 2014

M/s.United India Insurance Co. Ltd.,
Represented by its Branch Manager
Branch Office
No.33/83-A, 1st Floor,
Chittor Road, Rayachoty
Kadappa District
Andhrapradesh-516 269.

...Appellant/Respondent -II

Vs.

1.Murugamma
2.Murugappa
3.Miss. Kanniga

...Respondents 1 to 3/Petitioners 1 to 3

4.G.Bhaskar

... 4th Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 27.09.2013 passed in M.C.O.P.No.568 of 2013 by the Motor Accident Claims Tribunal, (District Judge, Special District Court) at Krishnagiri District.

For Appellant	: Ms.Janani for M/s.S.J.Chandran
For Respondents	: Notice served to R1 to R3 Notice unserved to R4

J U D G M E N T

This appeal has been filed by the appellant/insurance company challenging the award passed by the Tribunal on the ground of quantum.



WEB COPY

2. The claimants, have filed a claim petition before the Tribunal seeking compensation of Rs.20,00,000 for the death of one Prabhu, who is the son of the claimants 1 & 2 and brother of the 3rd claimant, in a road accident that took place on 10.12.2010.

3. The brief case of the claimant is as follows: On 10.12.2010 at 4.00 p.m, when the deceased Prabu was proceeding in his TVS Suzuki motor cycle bearing Registration No.TN-29-R-0811 along with a pillion rider by name Narasimmalu, on the extreme left side of the road, in Kuppam to Krishnagiri Road towards Krishnagiri, near Samathuvapuram bridge, a new Golden lorry bearing Registration No.AP-04-W-3717 came from opposite direction dashed against the deceased and thereby, he sustained fatal injuries and died on the spot. Hence, a claim petition has been filed against the respondents seeking a sum of Rs.20,00,000/- as compensation. According to the claimants, the rash and negligent driving of the driver of the lorry was the cause of accident and since the first respondent insured his vehicle with the second respondent, both of them are liable to pay compensation to the claimant.

4. The Insurance company has resisted the claim petition by filing the counter affidavit.

5. Before Tribunal, on the side of the claimants 1 to 3, the 1st claimant and one eye witness were examined as PW1 and PW2 respectively and Ex.P1 to Ex.P3 were marked. No oral or documentary evidence was adduced on the side of the second respondent.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.10,82,000/- as compensation to the claimants under various heads as extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Future Loss of Income	9,72,000
2	Loss of Love and affection for 1 to 3 claimants	75,000
3	Transport to Hospital	10,000
4	Funeral Expenses	25,000
3	Total	10,82,000

Aggrieved over the award passed by the Tribunal, the insurance company has filed the present appeal.



7. The learned counsel appearing for the appellant/ Insurance Company submitted that the accident was occurred only due to the negligence of the deceased and hence, the compensation awarded by the Tribunal has to be reduced. He also submitted that the Tribunal has awarded excess amount towards loss of income and the other heads also and hence, he prayed to set aside the Award passed by the Tribunal.

8. Heard the counsel appearing for the appellant and also I have perused the materials on record. Despite notice was served to the respondents 1 to 3, none appeared for the respondents 1 to 3.

9. On a perusal of the award, it is contended by the claimants 1 to 3 that only due to rash and negligent act of the driver of the offending/insured vehicle, the accident was happened. Further, in the evidence of PW1-Murugammal, it is stated that the deceased was working as a stone cutter and as building foundation mason as well as building contractor and also doing seasonal business and earned a sum of Rs.35,000/- per month. To prove the income of the deceased, no document was marked and the Tribunal has rejected the evidence of PW1. But, the Tribunal has fixed the income of the deceased as Rs.300/- per day and by taking note of the year of the accident as 2009, under the Minimum Wages (Amendment) Act, the Tribunal has rightly fixed the monthly income of the deceased as Rs.9000/- per month. Therefore, there is no error in fixing the monthly income of the deceased. The Tribunal has deducted 50% income of the deceased towards his personal expenses as he was a bachelor at the time of the accident and the reason was also assigned in the order that the dependants are more in number. As per the decision of the Hon'ble Supreme Court, the Tribunal has rightly adopted 18 multiplier and has totally awarded a sum of Rs.10,82,000/- as compensation to the claimants. Thus, the compensation awarded by the Tribunal is fair and reasonable one and therefore, the award passed by the Tribunal does not warrant any interference by this Court and the same is confirmed.

10. In fine,

(i) The civil miscellaneous appeal is dismissed. No costs. Connected miscellaneous petition is closed.

(ii) The appellant/insurance company is directed to deposit the entire compensation amount, as awarded by the Tribunal, with interest, from the date of claim petition till the date of deposit, less the amount if already deposited, within a period of six weeks from the date of receipt of a copy of this order.



WEB COPY

(iii) On such deposit being made by the insurance company, the claimants are entitled to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

uma

To

1. The Motor Accident Claims Tribunal,
The District Judge,
Special District Court,
Krishnagiri District.

Copy to:
Section Officer,
V.R. Section, Madras High Court,
Chennai-104.

+1cc to Mr. J. Chandran, Advocate, S.R.No.18399

CMA No.2891 of 2014
& M.P No.1 of 2014

AJB (CO)
CB(28/09/2021)