



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.1851 of 2016
and C.M.P.No.13561 of 2016

Reliance General Insurance Company Limited
Balmar Lawrie House, No.628
Anna Salai, Chennai -18.

...Appellant/2nd Respondent

Vs.

1.Chandhumathi

2.Chengama Naidu

3.Prabhavathamma

4.Minor Yasashree
(Rep. By her mother/1st respondent)

...1 to 4 Respondents/Petitioners

5.V.Purushothaman

...5th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act against the Judgment and decree dated 27.01.2015 passed in M.A.C.T.O.P.No.1112 of 2009 on the file of the Motor Accident Claims Tribunal, I Additional District Court, Tiruvallur.

For Appellant: Mr.M.Suresh
for K.Moorthy

For Respondent: Mr.N.S.Suganthan
for R1, R3 and R4
R2-No appearance
R5-Notice Served-NA



JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM,
J.]

WEB COPY This Civil Miscellaneous Appeal is directed against the Judgment and decree passed by the Motor Accident Claims Tribunal, 1st Additional District Court, Tiruvallur, in M.C.O.P.No.1112 of 2009 dated 27.01.2015.

2.Facts in brief:-

One Janakiraman, S/o Chengamma Naidu, died in a motor vehicle accident which took place on 12.09.2008. His wife, parents and minor daughter approached the Tribunal, seeking compensation on the ground that the deceased along with one Ananda Naidu were walking on Chithoor to Puthur Road. At that time, the driver of the Jeep bearing Registration No.TNI 2045 came in a rash and negligent manner, hit behind both the pedestrians. In which, the said Janakiraman died on the spot, while Ananda Naidu sustained grievous injuries. Since the 1st respondent is the owner of the offending vehicle and the 2nd respondent is the insurer, both are jointly and severally liable to pay compensation of Rs.62,95,000/-

3.The appellant resisted the claim petition by filing a counter in which the entire allegations and averments made in the claim petition were denied and disputed.

4.Before the Tribunal on behalf of the claimants 3 witnesses were examined; 8 documents were marked. The appellant neither examined any witness nor produced any documents.

5.P.W.2-Ananda Naidu deposed that he was walking along with the deceased on Chittoor to Puthur road, the Jeep which was proceeding on the same direction came behind them and hit against both of them. He further stated that he sustained grievous injuries and he was taken to the hospital and the said Janakiraman died on the spot. To support the oral evidence of P.W.2, the claimant marked Ex.P.1- copy of the First Information Report and Ex.P.2-Charge sheet to show that a criminal case was registered against the driver of the Jeep. As mentioned above the appellant has not examined any witness to disprove the evidence adduced by the claimants. Hence, the Tribunal has rightly held that the driver of the offending vehicle caused the accident.



6. Heard, Mr. Suresh, learned counsel appearing for the appellant and Mr. N. S. Suganthan, learned counsel appearing for the respondents 1, 3 and 4.

7. P.W.1 has stated that her deceased husband was working as Secondary Grade Assistant in Kesari Higher Secondary School at Chennai and he was paid Rs.13,103/- per month as salary. Ex.P.7 is the service register, which shows that the deceased was born on 10.08.1974. Thus the deceased died at the age of 34 years. Ex.P.6 is the Salary Certificate, which shows that the Gross salary was Rs.18,058/-. Though the deceased was a permanent employee and as per the decision of the Hon'ble Apex Court in the case of National Insurance Co., Ltd., Vs. Pranay Sethi and others the claimants are entitled for 50% for future prospectus, the Tribunal has ordered only 40% to determine the loss of income.

8. Considering the fact that the deceased have 4 dependants, 1/4th was deducted for the personal expenses. The Tribunal has fixed the income at Rs.25,281/- after adding 40% to his salary of Rs.18,058/- and by applying the multiplier of '16' has awarded Rs.36,40,464/- towards loss of income, in addition, Rs.25,000/- was awarded to the 1st claimant for Consortium and Rs.30,000/- to the claimants 2 to 4 for loss of love and affection and Rs.10,000/- for funeral expenses. In total, the tribunal has awarded Rs.37,05,464/- along with interest at the rate of 7.5% p.a.,.

9. In our view, the award is just and reasonable and hence the award of the Tribunal passed in M.C.O.P.No.1112 of 2009 dated 27.01.2015 is hereby confirmed.

10. Thus, the appellant/Insurance Company is directed to deposit the award amount with accrued interest at the rate of 7.5% 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. Interest shall be calculated from the date of claim petition, till the date of realisation. On such deposit, the major claimants are permitted to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. Insofar as the 4th claimant/minor, her share shall be deposited by the Tribunal in any Fixed Deposit Scheme in any one of the Nationalised Banks and it shall be renewed periodically till she attains majority and the interest accrued thereon shall be withdrawn by the first claimant/mother once in three months. The apportionment of shares as fixed by the Tribunal to the claimants is hereby confirmed.



11. In the result, this Civil Miscellaneous Appeal fails and the same stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

WEB COPY

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Motor Accident Claims Tribunal
I Additional District Court, Tiruvallur.

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

+1 CC to Mr.K. Moorthy, Advocate sr 12090.

+1 CC to Mr.N.S.Suganthan, Advocate sr 11759.

C.M.A.No.1851 of 2016

KJ(CO)
SP(12/04/2022)