



CMA.No.2784 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CMA.No.2784 of 2022
and C.M.P.Nos.14398 & 21669 of 2022

The Branch Manager,
United India Insurance Co.Ltd.,
No.64, Armenian Street, Parrys,
Chennai – 600 001.

..Appellant

Vs.

1.Jayalakshmi
2.Rejendran @ Rajendra Prasad
3.R.Priya

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 27.11.2014 made in MCOP.No.627 of 2013 on the file of the MACT (Spl.DJ) at Krishnagiri.

For Appellant : Ms.I.Malar

ORDER

The Civil Miscellaneous Appeal is filed as against the judgment and decree dated 27.11.2014 made in MCOP.No.627 of 2013 on the file of the MACT (Spl.DJ), Krishnagiri, thereby awarded compensation to the tune of Rs.24,45,000/-.



2. The respondents filed claim petition on the ground that on 16.09.2011

one Rajesh was travelling in a Bajaj Platina Motor Cycle bearing TN-03-0138 along with one P.K.Venkatesh. When they were proceeding in their bike in Kolathur 100 feet road near Retteri Signal, a Hero Honda motor cycle bearing Reg.No.TN-05-AH-7601 belong to one Sekaran and insured with the appellant herein and driven by one Loganathan, came in the opposite direction in a high speed and in a rash and negligent manner and dashed against the vehicle which was driven by Rajesh. Due to which, the pillion rider P.K.Venkatesh was thrown out and he sustained head injury and also sustained grievous injuries. Immediately, both were taken to Vee Care Hospital, Thirumangalam. Despite the best treatment given to the said Rajesh, he died in the hospital on the next day. The accident occurred only due to the rash and negligent driving of the rider of the Hero Honda motor cycle and as such, the Inspector of Police, Thirumangalam Police Station had registered FIR in Crime No.372 of 2011 for the offence under Section 337 IPC (2 counts) and Section 184 of MV Act. Subsequently, the said offence was altered to one under Section 304A IPC. The appellant had taken a specific stand and denied the manner of accident. So far the negligent act of the deceased rider, who was responsible for the accident, he is not made as a party in the claim petition and as such, the non-claim of party to those petition is fatal to the claim petition and it is liable to be dismissed.



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3. On the side of the claimant they had examined PW1 to PW3 and marked Exs.P1 to P13 and on the side of the appellant no one was examined and no document was marked.

4. The Tribunal awarded compensation of Rs.24,45,000/-. The deceased was unmarried therefore, half of the income was rightly deducted for his personal expenses. His salary was fixed at Rs.10,000/-, Rs.5,000/- is deducted towards personal expenses, Rs.5,000/- will be the monthly contribution by the deceased to the family. Therefore, Rs.5,000/- x 12 = 60,000/- will be the loss of income to the family of the petitioner for a year. Age of the deceased as per post-mortem certificate under Ex.P2 is 23 years. The date of birth of the deceased Rajesh as per Ex.P8 is 21.02.1988. He died on 16.09.2011. He died at the age of 23 years and 7 months. The appropriate multiplier for the range upto 25 years will be 18. If the deceased was less than 40 years old, $\frac{1}{2}$ of the salary to be included towards future prospects. Therefore, Rs.5,000/- + 5,000/- (Half a salary) Rs.10,000/- x 12 = Rs.1,20,000/-. Therefore, Rs.1,20,000/- x 18 = Rs.21,60,000/- will be future loss of income to the family of the deceased. Compensation for loss of love and affection for the respondents, who had lost their son at the prime of his youth, viz at the age is 23 years Rs.1,00,000/- each;



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compensation for loss of love and affection for the third petitioner who had lost her brother for the rest of her life will be Rs.50,000/-, compensation for transport to hospital Rs.10,000/-, compensation for funeral expenses will be Rs.25,000/-. Therefore, the award of the Tribunal is quite reasonable and there is no ground to reduce the same. Hence this appeal is liable to be dismissed.

5. Accordingly, the civil miscellaneous appeal stands dismissed and the order passed by the Tribunal is hereby confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

16.12.2022

Speaking/Non-speaking order
Index : Yes/No
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To

The Motor Accidents Claims Tribunal,
Krishnagiri.



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G.K.ILANTHIRAIYAN.J,

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