



WEB COPY



Civil Miscellaneous Appeal No.2150 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.2150 of 2022

1.Rajendran

S/o. (L) Rengasamy

2.Thangaponnu

D/o. (L) Rengasamy

... Appellants

Vs.

1.Panneerselvam

S/o.Palani

2.The Branch Manager,

M/s.United India Insurance Company Ltd.,

50A, Pallivasal Street, Perambalur.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 13.04.2022 made in M.C.O.P.No.153 of 2018 on the file of Motor Accident Claims Tribunal, Principal District Judge, Perambalur.

For Appellants : Mr.T.Gobinath

For Respondents : No appearance [R1]

Mr.S.Arunkumar [R2]



Civil Miscellaneous Appeal No.2150 of 2022

JUDGMENT

WEB COPY The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Principal District Judge, Perambalur, in M.C.O.P.No.153 of 2018 dated 13.04.2022, have filed the present appeal.

2. Heard Mr.T.Gobinath, learned counsel for appellants and Mr.S.Arunkumar, learned counsel for second respondent.

3. The case of the claimants is that their father was riding a bi-cycle on 14.01.2017 and at about 5.30 a.m., when he was going from east to west in Trichy to Musiri Main Road, the driver of the vehicle belonging to the first respondent had driven the vehicle in a rash and negligent manner and as a result, he hit the bi-cycle and the deceased fell down and sustained grievous injuries and died on the spot. A First Information Report came to be registered in Crime No.24 of 2017.

4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving of the



vehicle belonging to the first respondent. Having rendered such a finding, the Tribunal proceeded to fix the compensation at Rs.1,10,000/- payable with interest at 7.5% p.a. The claimants, not being satisfied with the compensation fixed by the Tribunal, have filed this appeal.

5. The main ground that was urged by learned counsel for appellants is that the Tribunal has not granted any compensation under the head loss of income. Learned counsel submitted that the deceased was earning income and was contributing the same and therefore, the Tribunal went wrong in not fixing any compensation under this head.

6. This Court has carefully considered the evidence of PW-1, who is the son of the deceased. He has stated that the deceased was aged about 60 years as per the postmortem certificate and that he was taken care by PW-1. There was absolutely no evidence to show that the claimants were dependents on the deceased. In view of the judgment of the Apex Court in *Sarla Verma and others v. Delhi Transport Corporation and another* [2009 (2) TN MAC 1 (SC)] and *Pranay Sethi and others vs. National Insurance Company Limited* [(2017) 2



WEB COPY

TNMAC 609 (SC)], dependency is the main criteria for fixing compensation under the head 'loss of income'. If dependency is not established, there is no scope for fixing compensation under the head 'loss of income'.

7. In view of the above, without there being any proof for dependency of the claimants on the deceased, there is no question of fixing any compensation under the head 'loss of income'. Therefore, the reasoning given by the Tribunal does not require the interference of this Court. The compensation fixed by the Tribunal is sustained.

8. The second respondent insurance company is directed to deposit the compensation awarded by the Tribunal, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, this Civil Miscellaneous Appeal is dismissed. No



Civil Miscellaneous Appeal No.2150 of 2022

costs.

WEB COPY

12.04.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

gm

To

The Motor Accident Claims Tribunal,
Principal District Judge, Perambalur.

N.ANAND VENKATESH, J.



WEB COPY



Civil Miscellaneous Appeal No.2150 of 2022

gm

Civil Miscellaneous Appeal No.2150 of 2022

12.04.2024