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CMA.No.428 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.428 of 2024

M/s.United India Insurance Company Limited,
No.235, Gandhi Market Road, Arani,
Thiruvannamalai District - 632 301.

... Appellant

vs.

1. Vijaya
2. Selvaraj
3. Vijayakumar
4. M/s.India Shoes,
No.5, Mount Poonamalli High Road,
Ramapuram, Chennai - 600 069.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 28.04.2023 in M.C.O.P.87/2016 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Attur, Salem District.

For Appellant : Mr.J.Chandran
For R1 and R2 : Mr.V.R.Anna Gandhi

J U D G M E N T

Questioning the quantum of compensation awarded by the Motor Accident Claims Tribunal, Attur in M.C.O.P.87/2016, the present appeal is filed by the appellant, the United India Insurance Company Limited, Tiruvannamalai.



CMA.No.428 of 2024

2. The respondents 1 and 2 filed the claim petition under

Sections 166 and 163-A of Motor Vehicles Act, in M.C.O.P.87/2016 before the Motor Accident Claims Tribunal, Subordinate Court, Attur, seeking compensation of Rs.30,00,000/- for the death of their son Nandhakumar in a road accident that occurred on 14.07.2015.

3. The brief case of the claimants is as follows :

On 14.07.2015, Nandhakumar (deceased) was travelling as a Pillion rider in a two wheeler bearing Registration number TN-21-AS-6568 on Mount - Poonamallee Road and at about 7.30 p.m., when he was nearing Kattupakkam, a speeding private bus bearing Registration number TN-23-N-0268 hit the two wheeler, as a result of which, Nandhakumar fell down on the right hand side of the road and was run over by the bus. He was immediately rushed to K.M.C. Hospital, Chennai. However, he succumbed to injuries on the same day.

4. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration number TN-23-N-0268 was the cause of the accident and that since the owner of the bus had insured his



CMA.No.428 of 2024

vehicle with the appellant, the United India Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

5. In the Tribunal, the owner of the bus remained absent and was set *ex parte*. The appellant, Insurance Company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

6. The Tribunal after analysing the evidence on record, fastened negligence on the part of the rider of the bus bearing Registration Number TN-23-N-0268 and directed the appellant Insurance Company to pay compensation of Rs.23,85,000/- to the claimants together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation, vide its orders dated 28.04.2023. The Tribunal also held that the liability of the owner and the insurer is joint and several.

7. Aggrieved over the quantum of compensation awarded by the Tribunal, the present appeal is filed by the appellant / the United India



CMA.No.428 of 2024

Insurance Company Limited under Section 173 of the Motor Vehicles Act.

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8. Heard Mr.J.Chandran, learned counsel for the appellant, Insurance Company and Mr.V.R.Anna Gandhi, learned counsel for the respondents 1 and 2, claimants.

9. Mr.J.Chandran, learned counsel for the appellant / Insurance Company contended that though the deceased was a third year B.E.student, the Tribunal had fixed monthly income of the deceased as Rs.15,000/-, which according to him, is on the higher side. He, therefore, prayed for scaling down the compensation awarded by the Tribunal.

10. Per contra, Mr.V.R.Anna Gandhi, learned counsel appearing for the claimants contended that the Tribunal after analysing the evidence on record, awarded just compensation to the claimants and therefore there is no need for this Court to interfere with the same.

11. In the instant case, the age of Nandakumar (deceased) was 20 years and he was studying B.E. III year. His parents are the claimants. Since the deceased was a student, the Tribunal had fixed the notional



CMA.No.428 of 2024

income as Rs.15,000/- for the purpose of calculating loss of dependency.

Considering the year of accident and the age of the deceased, this Court feels that the Tribunal has rightly fixed the monthly notional income of the deceased as Rs.15,000/-. The Tribunal has also followed the dictum laid down by the Hon'ble Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in (2009) 6 SCC 121 and *National Insurance Co. vs Pranay sethi and others* reported in 2017 (2) TNMAC 601 while awarding compensation to the claimants. Therefore, I do not find any reason to interfere with the same.

12. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The Award passed in M.C.O.P.87/2016, dated 28.04.2023 by the Motor Accident Claims Tribunal, Subordinate Court, Attur, Salem District, is upheld.

01.10.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral citation : Yes / No
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R.HEMALATHA, J.



CMA.No.428 of 2024

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WEB COPY To

- 1.The Motor Accident Claims Tribunal,
Subordinate Judge,
Attur, Salem District.
2. The Section Officer, VR Section,
Madras High Court, Chennai.

C.M.A.No.428 of 2024

01.10.2024