



WEB COPY



C.M.A.No.2594 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14/11/2024

C O R A M

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

C.M.A.No.2594 of 2019

The Divisional Manager
United India Insurance Co Ltd
Durga Bhavani Square
Opp. Railway Station
Denkanikottai Road
Hosur

...

Appellant

Vs

A. Raja (died)

1. Alagu
2. Rajeshwari
3. Vasantha Devi
4. Minor Varsha
5. Minor Logadharshini
6. P. Vijayalakshmi

...

Respondents

PRAYER : Appeal filed under Section 173 of the Motor Vehicles Act against the award and decree dated 13/6/2018 made in M.C.O.P.No.161 of 2016 on the file of Motor Accident Claims Tribunal (Additional District Judge), Hosur.



WEB COPY



C.M.A.No.2594 of 2019

For appellant ... Mr.A.Dhiraviyanathan

For respondents ... No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award and decree dated 13/6/2018 made in M.C.O.P.No.161 of 2016 on the file of Motor Accident Claims Tribunal (Additional District Judge), Hosur.

2. The facts which lead to the filing of this Civil Miscellaneous Appeal are as follows:-

The claimant aged 39 years alleged to be earning a sum of Rs.10,000/- p.m., met with an accident on 8/1/2015, while he was walking near ESI Quarters, rider of the two wheeler bearing Registration No.TN-70-H-4693 belongs to the rider, who is the sixth respondent herein and insured with the appellant herein, dashed the deceased. The deceased took treatment in the Government hospital, Hosur. Due to the loss suffered on account of the accident, claimant, claiming compensation for the injuries suffered had filed the claim petition. Pending M.C.O.P., injured died on 14/1/2017, leaving behind his father, mother and two daughters as his legal heirs. The claims



Tribunal after considering the pleadings, oral and documentary evidence awarded a sum of Rs.17,71,826/-, to the claimants as compensation. Being aggrieved, appellant Insurance Company has filed the instant Appeal.

3. Heard Mr.A.Dhiraviyanathan, learned counsel for the petitioner
There is no representation on behalf of the respondents.

4. The learned counsel appearing for the appellant Insurance Company submitted that claimants had filed a claim petition stating that on 8/1/2015, when the deceased was on the way to his office, rider of the Scooty pep bearing Registration No.TN-70-H-4693 dashed against the deceased, thereby the deceased sustained multiple injuries and filed claim petition. The accident had occurred on 8/1/2015 and he died on 14/1/2017, after three years of the alleged accident. Therefore, his death is in no way connected with the said accident. Moreover, the family of the deceased has not filed any proof for periodical treatment after discharge from the hospital on 13/8/2015. In order to prove the death had occurred due to the accident, no relatable document was filed.



WEB COPY

5. Perused the materials available on record.

6. When the deceased was on his way to employment, he had sustained right leg fracture and was admitted in the hospital and discharged on 13/8/2015. Prior to his death, he filed a claim petition and subsequently, he died on 14/1/2017. The claims Tribunal had discussed this issue. To prove the same, Ex.P.6 discharge summary and Ex.P.7 wound certificate issued by the Government Doctor were marked and thereafter, he continuously took treatment and Ex.P.9 death certificate which proves that the deceased had died due to the injury sustained in the accident.

7. In respect of the quantum of compensation, the deceased was employed as a machine operator and earned Rs.10,000/- p.m. At that time, his age was 39 years, as per the Death Certificate, Ex.P.9. Therefore, the trial Court had fixed the monthly income of the deceased as Rs.9,000/- p.m. Since there are five claimants, $1/4^{\text{th}}$ of the income was deducted towards personal expenses of the deceased and the loss of dependency was Rs.2,250/- ($9,000/- \times 1/4$) and when the amount deducted towards the personal expenses of the deceased, it comes to Rs.6,750/- ($\text{Rs.9,000/-} - 2,250/-$). The annual loss of dependency is Rs.81,000/- ($6,750/- \times 12$) and



C.M.A.No.2594 of 2019

when applied '15' multiplier, loss of dependency comes to Rs.12,15,000/-, and awarded Rs.4,86,000/- towards loss of future prospects, Rs.10,000/- each towards transportation, funeral expenses, loss of estate, Rs.25,000/- towards loss of consortium and Rs.15,826/- towards medical bills and thus, awarded a sum of Rs.17,71,826/- which is a just and reasonable. Thus, the Tribunal has given valid and cogent reasons for awarding the said claim as compensation. In view of the same, there is no reason to interfere with the said finding given by the Tribunal.

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

14/11/2024

mvs.

Index : Yes / No

Neutral Citation: Yes/No

To

The Motor Accident Claims Tribunal (Additional District Judge), Hosur.



WEB COPY



C.M.A.No.2594 of 2019

M.DHANDAPANI,J

mvs.

C.M.A.No.2594 of 2019

14/11/2024