(2007) 02 MAD CK 0125

In the Madras High Court

Case No : C.M.A. No. 329 of 2007

National Insurance Co. Ltd. APPELLANT

Vs

Mozhi Arasi and Others RESPONDENT

Date of Decision : 07-02-2007

Acts Referred:
Motor Vehicles Act, 1988 — Section 173

Citation : (2008) ACJ 2199 : (2007) 2 MLJ 732

Hon'ble Judges : P.D. Dinakaran, J;Chitra Venkataraman, J

Bench : Division Bench

Advocate : S. Vadivel, for the Appellant; M. Selvam, for respondents 1 to 3, for the Respondent

Judgement

Chitra Venkataraman, J.—This appeal is preferred by the Insurance Company against the order of the Tribunal dated 13.3.2006 in M.A.C.T.O.P. No. 682 of 2004, challenging the award of Rs. 24,44,530/-.

2. It is seen from the order of the Tribunal that the accident occurred on 20.11.2003 at 5.45 a.m. resulting in the death of one Annamalai. The claimants were the wife, children and the parent of the deceased. They made a petition claiming compensation for a sum of Rs. 30 lakhs. Based on the evidence adduced by the deceased himself just a few hours before his death, marked as Ex.A1, the Tribunal came to the conclusion that the accident was caused by the rash and negligent driving of the driver of the vehicle belonging to the fourth respondent herein, insured with the appellant herein.

3. On the question of compensation, the Tribunal noted that at the time of the accident, the deceased was 40 years old and he was an earning member. It noted that the deceased was working as Senior Assistant Engineer in the Tamil Nadu State Transport Corporation. The Tribunal assessed the monthly income of the deceased at Rs. 11,483/-. Taking the note of the possibility of his further promotion, the deceased would have continued in his service for another 18 years but for his untimely death, the Tribunal determined the contribution at Rs.

10,000/-, taking the probable earnings at Rs. 15,000/- per month. Applying the multiplier at 18, the Tribunal arrived at the contribution at Rs. 21,60,000/-. The Tribunal further held that the deceased earned bonus of a sum of Rs. 8,348/-. The Tribunal arrived at the bonus at Rs. 1,53,000/- for the balance of 18 years'' service, thus the total contribution was arrived at Rs. 23,13,000/-. Apart from this, the Tribunal noted that the deceased died in the hospital after taking treatment for two days, thereby incurred medical expenses at Rs. 66,530/-. These expenses were supported by Ex.A14. After the demise of the deceased, the body was brought from Bangalore to the native place. In the circumstances, apart from awarding Rs. 66,530/- towards medical expenses, a sum of Rs. 10,000/- towards transportation charges and a sum of Rs. 5,000/- towards funeral expenses were granted. A sum of Rs. 10,000/- was granted towards loss of consortium. Towards loss of love and affection, a sum of Rs. 10,000/- was granted to the wife and Rs. 10,000/- each to the two minor children were granted, totalling to Rs. 30,000/-. For the loss of love and affection, the fifth respondent, the parent, was granted a sum of Rs. 10,000/-. Thus, a total sum of Rs. 24,44,530/- was granted towards compensation. The Tribunal also granted interest at 7.5% per annum on the compensation granted from the date of the claim petition till the date of payment.

4. Aggrieved of this, the Insurance Company has come on appeal, contending that the accident was a head-on collision. Quite apart from this, the appellant also contended that fixing the income at Rs. 15,000/- per month is contrary to Ex.A21.

5. On notice to the other side and on hearing both sides, the parties herein agreed for a re-working of the compensation. Accordingly, taking the contribution at Rs. 10,000/- per month and applying the multiplier of 16, the contribution payable works out to Rs. 19,20,000/-. Apart from this, the medical expenses granted at Rs. 66,530/- and the transportation charges granted at Rs. 10,000/- are confirmed. The compensation awarded towards funeral expenses is increased to Rs. 10,000/-. So too, on the question of loss of consortium, the compensation payable is hereby enhanced to Rs. 50,000/- and the compensation to the children towards loss of love and affection is enhanced to Rs. 25,000/- each, totalling to Rs. 50,000/- and Rs. 25,000/- to the wife towards loss of love and affection, as against Rs. 10,000/- awarded to each one of them. Consequently, as agreed, the compensation stands re-worked as follows:

Pecuniary loss (Rs. 10,000/- X 12 X 16) : Rs. 19,20,000/- Medical expenses : Rs. 66,530/- Funeral expenses : Rs. 10,000/- Transportation charges : Rs. 10,000/- Loss of consortium : Rs. 50,000/- Loss of love and affection to the minor children (Rs.25,000 X 2) : Rs. 50,000/- Loss of love and affection to the wife : Rs. 25,000/- Loss of love and affection to the parent : Rs. 10,000/- ~~~~~~~~~~~~~~~~ Total : Rs. 21,41,530/- ~~~~~~~~~~~~~~~~

The interest payable on the said compensation shall be at 7.5% per annum. The appeal is allowed in part and the order of the Tribunal is set aside as stated above, re- fixing the compensation at Rs. 21,41,530/-. Connected M.P. No. 1 of 2007 is closed. There will, however, be no order as to costs.

