
(2015) 08 MAD CK 0044
In the Madras High Court
Case No : C.M.A. No. 3470 of 2005

New India Assurance Company Ltd.

APPELLANT

Vs

R. Sarojini Bai and Others

RESPONDENT

Date of Decision : 24-08-2015

Acts Referred:

Citation : (2015) 8 MLJ 63

Hon'ble Judges : R. Sudhakar, J.

Bench : Single Bench

Advocate : J. Chandran, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

R. Sudhakar, J.—The New India Assurance Company is the appellant in the above appeal challenging the award and decree dated 11.02.2005 passed in M.C.O.P. No. 1093 of 2003 on the file of the Motor Accidents Claims Tribunal (Small Causes Court), Chennai. It is a case of fatal accident which occurred on 29.01.2001. According to the claimants, parents of the deceased T. Jegan, on 29.01.2001, at about 12.30 p.m., when their son was driving the Maruthi car bearing Registration No. TN-07-H-3213 from Chennai to Mahabalipuram in East Coast Road, near Meeran Nagar, Kanathur, the driver of the lorry bearing Registration No. TN-21-U-7333 drove the lorry in a rash and negligent manner from the opposite direction and dashed against the car and thus, caused the accident. Jegan sustained fatal injuries. According to the claimants, their son was aged 22 years, was an engineer employed at B.R.B. Consultants, Chennai and earning a sum of Rs. 10,000/- per month. They claimed a sum of Rs. 16,00,000/- as compensation from both the respondents, the 1 st respondent being the owner and the 2nd respondent being the insurer of the vehicle.

2. In support of the claim, the claimants had examined P.Ws. 1 to 3 and marked Exs. P-1 to P-11, the details of which are as follows:

Ex. P-1 is the copy of Post Mortem Certificate

Ex. P-2 is the death certificate

Ex. P-3 is the legal heirship certificate

Ex. P-4 is the copy of the F.I.R.

Ex. P-5 is the copy of the course completion certificate

Ex. P-6 is the driving licence

Ex. P-7 is the copy of the trust deed

Ex. P-8 is the copy of the provisional certificate

Ex. P-9 is the identity card of the 2 claimant

Ex. P-10 is the bonafide certificate

Ex. P-11 is the salary certificate of the deceased Neither any witness nor any document was marked on behalf of the respondents before the Tribunal.

3. The finding of negligence on the part of the driver of the offending vehicle who is responsible for the accident and the death and consequential liability fixed on the appellant insurance company to compensate the claimants is not seriously disputed and such finding is confirmed. The appeal is filed mainly challenging the quantum of compensation.

4. A perusal of the material documents reveals that the 1 claimant - father of the deceased Jegan - had examined himself as P.W. 1. P.W. 2 is a person who has witnessed the accident. He is no way related or known to the deceased or claimants. P.W. 3 is the person under whom the deceased Jegan was employed as Engineering Consultant for two months. He had spoken about the fact that the deceased was earning a sum of Rs. 10,000/- per month and the salary certificate is marked as Ex. P. 11. Since P.W. 3 had deposed that the deceased was employed under him only for two months prior to the date of the accident, the Tribunal, considering the educational qualification of the deceased namely Civil Engineering, fixed the month income of the deceased at Rs. 7,500/-. After deducting one third towards his personal expenses, the loss of monthly income is fixed at a sum of Rs. 5,000/- and by adopting 11 as multiplier, the Tribunal has arrived at a sum of Rs. 6,60,000/- as loss of dependency. The Tribunal has granted a sum of Rs. 7,500/- each towards loss of love and affection and loss of expectation of life and a sum of Rs. 5,000/- towards funeral expenses. In all, the Tribunal had granted a sum of Rs. 6,80,000/- as compensation with 9% interest.

5. In appeal, the appellant contends that both the claimants, viz. Father and mother of the deceased are well employed and therefore, they cannot be said to be dependants on the salary of the deceased for their livelihood and that the multiplier adopted is also on the higher side. According to the appellant, the age of the dependant father viz. 55 years, should have been considered and that 8 would be the appropriate multiplier.

6. Though the appellant disputes the manner in which the accident had occurred and the consequential claim, the Tribunal had rightly pointed out that the claimants had examined P.W. 2 - an eye witness to the accident - who deposed that while the maruti car was proceeding from Chennai to Mahabalipuram, the lorry bearing registration No. TN-21-U-7333, proceeding from the opposite direction, attempted to overtake another lorry and in that attempt, the driver of the lorry dashed against the maruti car and caused the accident and that the driver of the car died on the spot. It is not in dispute that P.W. 2 is known to anyone and that he is a third party. There is no reason to disbelieve his evidence. In fact, in this case, the F.I.R. had been registered on the complaint lodged by another eye witness. To support the claim of the appellant that the accident had not taken place in the manner as alleged by the claimants, the appellant has not examined the driver of the lorry. As there is no contra evidence, the Tribunal had accepted the claimants' version. This Court also cannot find fault with that view.

7. Now coming to the amount of compensation awarded, a cursory reading of the claim petition shows that though the claimants have pleaded that the deceased was earning a sum of Rs. 10,000/- per month through his employment and that he was one of the trustees in the trust and that he was managing the School, the Tribunal has chosen to fix only a sum of Rs. 7,500/- as the monthly income of the deceased. The deceased being a Civil Engineer, the sum of Rs. 7,500/- fixed as monthly salary cannot be said to be on the higher side. Next, it is contended that the multiplier adopted is higher. No doubt it is true that the parents of the deceased are employed and they cannot be said to be dependants on the salary of the deceased for their livelihood. The multiplier adopted by the Tribunal is only 11. Even while considering the age of the dependants, the multiplier adopted is on the lower side only. More over, towards loss of love and affection and loss of expectancy of life, the Tribunal had granted only a meagre sum of Rs. 7,500/- under each head.

8. Considering all the aforesaid factors, this Court is of the view that the award passed by the Tribunal is just and reasonable compensation and does not require any reduction or modification and accordingly, it is confirmed. There is no dispute with regard to interest granted by the Tribunal at 9% and the same is confirmed. Finding no merits, this Civil Miscellaneous Appeal is dismissed. There shall be no orders as to the costs.