

(2016) 09 MAD CK 0092

In the Madras High Court

Case No : C.M.A. No.2072 of 2016 and C.M.P. No. 15146 of 2016

Oriental Insurance Company Limited, Coimbatore

APPELLANT

Vs

P.V. Damodharan

RESPONDENT

Date of Decision : 14-09-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, Section 168, Section 173

Citation : (2016) AAC 2406

Hon'ble Judges : Mr. S. Manikumar and Mr. N. Authinathan, JJ.

Bench : Division Bench

Advocate : Mr. N. Vijayaraghavan, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Mr. S. Manikumar, J. - Being aggrieved by the award, dated 28.03.2013, made in MCOP No.515 of 2005, on the file of the Motor Accidents Claims Tribunal (II Additional District and Sessions Judge), Tiruppur, the Oriental Insurance Company Limited, Coimbatore, has preferred this appeal.

2. Short facts leading to the appeal are that on 02.02.2005, about 12.50pm, when Prakash was riding a motor cycle bearing Regn.No.TN38 W 1914 on Kovai Avinashi Main Road, opposite to PSG College of Technology, a Tempo Van bearing Regn.No.TN39F 9990, insured with the appellant-Oriental Insurance Company Limited, driven by its driver in a rash and negligent manner, dashed against the motorcycle, resulting in grievous injuries. Though, the injured was provided intensive treatment in Coimbatore PSG College, he died on 11.02.2005. In this regard, a case in Cr.No.45 of 2005 has been registered against the driver of the tempo van on the file of TIW East Police Station.

3. Parents filed MCOP No. 515 of 2005 on the file of Motor Accidents Claims Tribunal (II Additional District and Sessions Judge), Tiruppur, claiming compensation of Rs.50 Lakhs. According to them, at the time of the accident, Prakash was aged about 22 years, and that he was in final year B.E. (Electronics

and Communication), in PSG College of Technology. Before the tribunal, they have further stated that during college campus interview, he was offered employment in Cognizant Technology Solutions India Private Limited, Chennai, at an annual salary of Rs.2,11,500/-. In support of offer of employment, from the said company respondents/claimants have produced Ex.P10. To prove the educational qualifications respondents/claimants have marked Ex.P11, 10th standard mark-sheet, Ex.P12, 12th standard mark-sheet and Ex.P13, mark sheet issued by PSG College. That apart, respondents/claimants have marked, Ex.P9, medical bills and other documents.

4. Before the tribunal, the manner of accident and the quantum of compensation claimed under various heads have been opposed by the Insurance Company.

5. Evaluating the pleadings and evidence, the claims tribunal found that the driver of the tempo van bearing Regn.No.TN38F9990 insured with appellant-Insurance company was negligent in causing the accident. Determining the age of the deceased, at the time of accident as 22 years and taking note of the educational qualifications and Ex.P10, offer of employment from Cognizant Technology Solution India Private Limited, the tribunal fixed the monthly income of the deceased as Rs.15,000/- for the purpose of computing the loss of contribution to the family.

6. Following the decision of the Hon"ble Apex Court in Amrit Bhanu Shali & Others v. National Insurance Co. Ltd & Others, reported in 2012 (2) TNMAC 321 SC, the tribunal applied "17" multiplier. Thereafter, the tribunal deducted 7rd towards the personal and living expenses of the deceased and computed the loss of contribution to the family as Rs.20,40,000/- (Rs.15000/- x 7 x 12 x 17). Tribunal awarded Rs.2,00,000/- towards loss of love and affection. On the basis of Ex.P9, medical bills, tribunal has awarded Rs.3,40,000/- for medical expenses, Rs.1,00,000/- for pain and sufferings, Rs.10,000/- for transportation and nutrition and Rs.6,000/- for funeral expenses. Altogether, the tribunal has awarded Rs.27,06,000/- as compensation with interest, at the rate of 7.5% per annum.

7. Though, Mr. N. Vijayaraghavan, learned counsel for the appellant submitted that the tribunal has erred in fixing the monthly income of the deceased at Rs.15,000/- and sought for reduction in the quantum of compensation on the ground that the tribunal has erred in deducting 7rd towards personal and living expenses, when the deceased was a bachelor and that the tribunal ought to have deducted only = towards personal and living expenses of the deceased, this Court is not inclined to reduce the quantum of compensation, for the reason that when Ex.P10, offer of employment from Cognizant Technology Solutions India Private Limited, Chennai, has been produced by the respondents/claimants, for an annual income of Rs.2,11,500/- the tribunal ought to have fixed the same. It could be noted that the son of the respondents/claimants was in the final year, and but for the untimely death, on completion of the course, he would have been employed in the said private company. Moreover, it is well known that Cognizant

Technology Solutions India Private Limited, Chennai, is a reputed company.

8. The deceased was just 22 years at the time of accident. Considering the educational qualifications viz. Final year B.E. (Electronics and Communication) and the prospects in the said company, the tribunal ought to have considered awarding compensation under the head future prospects also, which is conspicuously absent. Award under the head funeral expenses is less.

9. Therefore, in the light of the above discussion, this Court is not inclined to interfere with the quantum of compensation and the Civil Miscellaneous Appeal is dismissed. No costs.

10. Consequent to the dismissal of the appeal, the appellant-Insurance Company is directed to deposit the entire award amount with proportionate accrued interests and costs, less the amount already deposited, to the credit of MCOP No.515 of 2005, on the file of the Motor Accidents Claims Tribunal (II Additional District and Sessions Judge), Tiruppur, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents/claimants are permitted to withdraw the same, by making necessary applications before the Tribunal. Consequently, connected Miscellaneous Petition is also closed.