
(2009) 08 MAD CK 0029

In the Madras High Court

Case No : C.M.A. No. 2022 of 2009 and M.P. No. 1 of 2009

United India Insurance Co. Ltd.

APPELLANT

Vs

Jayanthi and Others

RESPONDENT

Date of Decision : 07-08-2009

Acts Referred:

Citation : (2011) ACJ 301

Hon'ble Judges : T. Sudanthiram, J

Bench : Single Bench

Advocate : N. Mala, for the Appellant; V. Parivallal, for the Respondent

Judgement

T. Sudanthiram, J.—The Appellant herein United India Insurance Co. Ltd. has preferred this civil miscellaneous appeal against the judgment

and decree passed by Motor Accidents Claims Tribunal, (Fast Track Court No. 1), Chennai in M.C.O.P. No. 2149 of 2006 dated 30.1.2008

awarding a compensation amount of Rs. 10,82,000 to the claimants-Respondent Nos. 1 and 2 herein who are the parents of the deceased by

name Sai Lavanya.

2. The brief facts of the case are as follows:

On 19.2.2003 at about 7 p.m., the deceased along with her friend was going on a motor cycle bearing registration No. TN 23-E 1621 at Vellore

to Kadpadi Road. The deceased riding as a pillion rider and her friend riding the motor cycle were going near Odaipillaiyar at Koil junction. A

private bus bearing registration No. TM 35-0708 being driven by its driver in a rash and negligent manner came in the same direction and hit

behind the motor cycle. The deceased was thrown out of the vehicle and sustained injuries and on the way to hospital she died. The parents of the

deceased filed a petition claiming compensation for a sum of Rs. 25,00,000. The Respondent No. 3 herein who is the owner of the vehicle

remained ex parte before the Tribunal. The claim was resisted by the Appellant herein who is the insurer of the offending vehicle.

3. To prove the case, on the side of the claimants, three witnesses were examined and 27 documents were marked and on the side of the opposite

party, one witness was examined and no document was marked. The Tribunal after considering the evidence and the documents held that the

driver of the bus drove the vehicle in a rash and negligent manner and caused the accident and awarded a total compensation amount of Rs.

10,82,000 to the claimants.

4. The learned Counsel for the Appellant mainly challenged the quantum of compensation amount awarded in this case and submitted that the

Tribunal has erroneously relied on Exh. P22, which is only an offer letter for employment and assessed the notional income of the deceased. The

learned Counsel for the Appellant further submitted that the Tribunal has applied multiplier 15 which is very high.

5. The learned Counsel appearing for the claimants-Respondent Nos. 1 and 2 herein submitted that the deceased was a final year B.E. student and

she was a selected candidate for the job as Assistant System Engineer and Trainee in Tata Consultancy Services, Chennai and her future monthly

income was fixed as Rs. 18,000. The deceased had a bright future. But due to this accident, the parents have lost their only daughter. The age of

the father and mother of the deceased were 52 and 43 respectively at the time of accident and the Tribunal has applied only appropriate multiplier

of 15. The learned Counsel for the Respondent further pointed out that the Tribunal has failed to grant some amount as compensation towards loss

of love and affection.

6. This Court considered the submissions made by both parties and perused the records.

7. Mannivannan, PW 3, an eyewitness to the occurrence, had deposed about the manner in which the accident had taken place. According to his

evidence, the bus which came behind the two-wheeler was driven in a high speed and dashed against the two-wheeler. A case was also filed by

the police against the driver of the bus and he also pleaded guilty and paid the

fine amount. The judgment copy is also marked as Exh. P6. The Tribunal has rightly held that the driver of the bus drove the vehicle in a rash and negligent manner and dashed against the two-wheeler and caused the death of the deceased.

8. At the time of death, the deceased was an unmarried girl aged about 22 years. She was a student in Vellore Engineering College. Her school certificates and other certificates were marked which shows that she was a bright student. She was selected by Tata Consultancy Services, Chennai and her offer letter was also marked as Exh. P22, in which on appointment after completing her studies, her salary was fixed at Rs. 18,000.

9. Though the salary which was to be given to the deceased after completing her studies was Rs. 18,000, as she has not completed her studies and she has not joined the job, the Tribunal assessed her future monthly income as Rs. 9,000 and after deducting 3rd amount for personal expenses, fixed the monthly contribution to be Rs. 6,000. The loss of contribution per year was assessed as Rs. 72,000. Considering the age of the parents, the Tribunal applied multiplier 15 and assessed the total loss of dependency to Rs. 10,80,000. The loss of income per year Rs. 72,000 to the family assessed by the Tribunal cannot be said to be high. The only question is that multiplier of 15 applied is proper or not. The deceased being an unmarried girl and considering the possibility of getting married after a few years this Court feels that applying multiplier 11 would be proper. Total loss of dependency is now worked out to (Rs. 72,000 x 11) Rs. 7,92,000. The Tribunal also awarded a sum of Rs. 2,000 for the funeral expenses. The Tribunal has not awarded any amount towards loss of love and affection. As the parents have lost their daughter, a sum of Rs. 50,000 to each of the claimant is now awarded for loss of love and affection. The total compensation amount awarded to claimants-Respondent

Nos. 1 and 2 is modified as follows:

(a) Loss of notional income to the family Rs. 7,92,000

(b) Funeral expenses Rs. 2,000

(c) Loss of love and affection Rs. 1,00,000

Total Rs. 8,94,000

The rate of interest at 9 per cent per annum fixed by the Claims Tribunal is confirmed. The total compensation amount would be shared by

Respondent Nos. 1 and 2 equally.

10. The Appellant herein is directed to deposit the entire amount of the award as modified now within a period of eight weeks from the date of

receipt of copy of the judgment. The claimants-Respondent Nos. 1 and 2 herein are permitted to withdraw the amount of such deposit.

11. The appeal is partly allowed with the above modifications as indicated above. Consequently, the connected miscellaneous petition is closed.

No costs.