
(2006) 12 MAD CK 0174
In the Madras High Court
Case No : C.M.A. No. 3659 of 2005

United India Insurance Co. Ltd.

APPELLANT

Vs

P. Mumtaj and Others

RESPONDENT

Date of Decision : 14-12-2006

Acts Referred:

Citation : (2008) ACJ 1202

Hon'ble Judges : P.P.S. Janarathna Raja, J; P.D. Dinakaran, J

Bench : Division Bench

Advocate : C. Ramesh Babu, for the Appellant; P. Subramanian, for the Respondent

Judgement

P.D. Dinakaran, J.—The appeal arises out of the judgment dated 17.8.2005 made in M.C.O.P. No. 2880 of 2000, whereby the Motor Accidents Claims Tribunal/ Fifth Small Causes Court, Chennai has allowed the claim petition and awarded a compensation of Rs. 12,50,000 (rupees twelve lakh fifty thousand) with interest at 7.5 per cent per annum, for the death of one Feroz Khan, son of respondent Nos. 1 and 2 and brother of respondent Nos. 3 and 4, in a motor accident said to have taken place on 22.4.2000 near a junction at Sathiyavedu Road and G.N.T. Road.

2. The brief facts are:

2.1. At about 12 hours on 22.4.2000, when the deceased Feroz Khan was returning after his work from Bharath Textiles Proofing Ltd. towards Kavarapettai in his Bajaj scooter bearing No. TN 04-C 6033 near the junction of Sathiyavedu Road and G.N.T. Road, a lorry belonging to the respondent No. 5 bearing registration No. TN 22-X 4770, came in a rash and negligent manner and dashed against Bajaj scooter driven by the deceased Feroz Khan, due to which the deceased sustained grievous injuries and died on the spot.

2.2. The claim petition in M.C.O.P. No. 2880 of 2000 was filed by the respondents-claimants, claiming a compensation of Rs. 30,00,000 (rupees thirty

lakh) for the death of the said Feroz Khan, which was resisted by appellant insurance company on the ground that the accident took place only due to rash and negligent driving of the deceased and the driver of the lorry cannot be held solely responsible for the accident. Apart from denying all the averments stated in the claim petition with regard to the age of the deceased, salary, occupation, time and place of occurrence, insurance policy, etc., the appellant insurance company also resisted the claim for non-joinder of necessary parties.

2.3. Claims Tribunal, after framing the issues and after taking into consideration the evidence, both oral and documentary, decided the claim petition in favour of the claimants in terms of the impugned judgment. The Tribunal held that accident in question had occurred only due to rash and negligent driving of the lorry by its driver and as a result of the same, the deceased died. Learned Tribunal also held that the claimants are entitled to the compensation for the death of the deceased Feroz Khan and determined a sum of Rs. 12,50,000 as the amount due to the claimants under the following heads:

Loss of income and Estate	Rs. 12,00,000	Loss of expectation of Life	Rs. 10,000
Loss of love and Affection	Rs. 30,000	Funeral expenses	Rs. 10,000
Total Rs. 12,50,000			

3. The only contention argued before us by the learned Counsel appearing for the appellant insurance company is with regard to the quantum of compensation arrived at by the Tribunal for loss of income and estate at Rs. 12,00,000. He submits that the Tribunal having found that the deceased was aged about 24 years and was earning Rs. 10,000 per month at the time of accident and having also fixed the age of the mother of the deceased as 42 years, ought to have applied the multiplier of 10 as per the principles laid down in *The Municipal Corporation of Greater Bombay Vs. Shri Laxman Iyer and Another*, and accordingly, could have fixed a sum of Rs. 8,00,000 towards loss of income and estate. But, the Tribunal, without following the principles laid down in the aforesaid decision, simply arrived at a sum of Rs. 12,00,000, which is illegal and hence, compensation awarded by the Tribunal is liable to be scaled down if not completely set aside at the hands of this court.

4. Learned Counsel for the respondents-claimants submits that the compensation arrived at by the Tribunal towards loss of income of the deceased is not on the higher side and hence, the award of compensation has to be confirmed at the hands of this Court and the appeal has to be dismissed.

5. Considering the submissions made by learned Counsel on both sides as well as taking into consideration the facts and circumstances of the case, we feel it appropriate that a total amount of Rs. 10,00,000 as compensation payable to the claimants would meet the ends of justice.

6. Accordingly, the compensation awarded by the Tribunal towards loss of income and estate at Rs. 12,00,000 is reduced to Rs. 9,50,000 and the compensation awarded for loss of expectation of life at Rs. 10,000, towards loss of love and

affection at Rs. 30,000 and towards funeral expenses at Rs. 10,000 shall stand confirmed.

7. With the above modification in the compensation awarded by the Tribunal, the appeal is partly allowed. No costs.