IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.234 of 2016
and C.M.P.No.1909 of 2016

M/s.Reliance General Insurance Co. Ltd.,
Reliance Towers, 6th Floor,
No.6, Haddows Road,
Chennai - 600 006.
.. Appellant/2nd Respondent

vs.

1. Tmt.M.Kalaivani
2. M.Vidya Lakshmi (Minor)
3. M.Yoga Sree (Minor)
4. Tmt.S.Savithri
5. R.Singaram
(Minors 2 and 3 rep. by Mother
& Next friend - R1)
..Respondents/Petitioners

6. M/s.S.K.Transport,
No.5-167 F2, Salem Road,
Namakkal ..Respondent/1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 17.04.2013 passed in M.C.O.P.No.4959 of 2010 on the file of the Motor Accidents Claims Tribunal (VI Court of Small Causes) Chennai.

For Appellant : Mr.N.Vijayaraghavan
For Respondents: Mr.K.Varadha Kamaraj

JUDGMENT
(Judgment of the Court was delivered by R.SUDHAKAR,J.)

Reliance General Insurance Co. Ltd. is on appeal challenging the award dated 17.04.2013 passed in M.C.O.P.No.4959 of 2010 on the file of the Motor Accidents Claims Tribunal (VI Court of Small Causes) Chennai.

2. It is a case of fatal accident. On 27.09.2010, at about 13.00 hours, the deceased S.Murugan, was going on his motorcycle bearing Registration No.TN-18-A-6593 at Ponneri High Road near Vellivayal Chavadi Checkpost, Chennai proceeding towards Manali. At that time, a Trailor lorry bearing Registration No.HR-55-G-9266 was proceeding in the same direction in a rash and negligent manner, thereby dashed against the said S.Murugan resulting in fatal injuries to the said S.Murugan. The claimants, who are wife aged 25 years, minor children, aged 7 years and 2 years respectively, mother, aged 51 years and father, aged 60 years of the deceased have filed a claim for compensation for a sum of Rs.1,00,00,000/-. According to the claimants, the deceased was a building contractor and was earning a sum of Rs.1,00,000/- per month.

3. In support of the claim, the wife of the deceased was examined as P.W.1; one B.Gandhan, stated to be eye witness to the accident, was examined as P.W.2 and Ex.P-1 to Ex.P-12 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Copy of FIR in Cr.No.479/GNT/10 registered at Traffic Investigation wing
P2	Postmortem Certificate
P3	Legalheirs Certificate
P4	Death Certificate
P5	Income Tax Returns for the Assessment Year 2009-2010
P6	Mayan Engineer's Work Order & Payment Voucher
P7	Xerox copy of Sale Deed
P8	Agreement for Land Purchase
P9	Bank Statement and Pass Books
P10	Pan card of the deceased
P11	EMAS Engineer Work Order and Bank Voucher
P12	Car Loan Details

On behalf of the appellant Insurance Company, no witnesses were examined and no exhibits were marked.

4. The Tribunal, based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that the deceased was having valid driving licence to drive the vehicle, came to conclusion that the driver of the Trailor Lorry was rash and negligence and was responsible for the accident and consequently liability was fixed on the appellant Insurance Company to compensate the claimants, as the vehicle of the sixth respondent herein was insured with the appellant. On this

issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased by adopting multiplier 16	Rs.33,45,000/-
2	Loss of love and affection	Rs. 10,000/-
3	Loss of consortium	Rs. 50,000/-
4	Funeral expenses	Rs. 5,000/-
	Total	Rs.34,40,600/-
		(Rounded off to Rs.34,41,000/-)

6. The only serious objection raised is with regard to the income fixed by the Tribunal. Insofar as the quantum of compensation is concerned, based on the evidence of the first claimant as against the income of Rs.1,00,000/- per month claimed, the Tribunal, taking note of the income tax returns filed, fixed the income at Rs.2,78,800/- per annum in respect of the 27 years old deceased, a building contractor.

7. It is seen that the work orders Exs.P.6 and Ex.P.11 marked before the Tribunal show that the deceased was having work orders and would have earned more than what was fixed by the Tribunal. Even though there was steep increase in the income in the returns filed for the assessment years 2008-09 and 2009-10, the Tribunal fixed the income at Rs.2,78,800/- per annum only, which is very reasonable and is justified.

8. The Tribunal deducted 1/4 towards personal expenses of the deceased. This appears to be justified.

9. Therefore, this Court finds no good reason to reduce the quantum of compensation awarded. The Tribunal has awarded only a sum of Rs.10,000/- towards loss of love and affection to the claimants, numbering 5. Hence, on the face of the order of the Tribunal, it appears that the compensation granted by the Tribunal is marginally less than what could have been granted.

10. There is no serious objection in respect of the other amounts granted or the interest granted at 7.5% per annum.

11. Finding no merit, the Civil Miscellaneous Appeal is dismissed at the admission stage. Counsel for the appellant prays eight weeks' time to deposit the award amount and is granted. On such deposit the major claimants are permitted to withdraw their respective share as ordered by the Tribunal. The share of the minors shall be deposited in any one of the Nationalised Bank initially for a period of three years and to be renewable thereafter periodically, till they attain majority. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Registrar,
Court of Small Causes-VI
(Motor Accidents Claims Tribunal)
Chennai.

+1cc to Mr.K. Varadhakamaraj, Advocate, S.R.No.9389

AK(CO)
EU(10/03/2016)