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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.(MD)No.159 of 2017
and
C.M.P(MD)No.1702 of 2017

The Regional Manager,
Sri Ram General Insurance Company Ltd.,
E/8,EPIP, RIICO Industrial Area Sitapura,
Jaipur,
Rajasthan - 303 032. ... Appellant/
2nd Respondent

Vs.

1.Rani
2.Minor Ramesh
3.Minor Diwahar
4.Minor Chitra
(Minor respondents 2 to 4 are represented through their mother and natural guardian, Rani, the first respondent herein.)

5.Arumugam
6.Saroja ... Respondents 1 to 6/
Petitioners

7.Suresh ... 7th Respondent/
1st Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Order and decreetal Order dated 17.12.2015, made in M.C.O.P.No.1337 of 2013, by the Motor Accident Claims Tribunal - cum – Special District Court, Thanjavur.

For Appellant : Mr.D.Sivaraman

For Respondents : Mr.K.M.Karunakaran
for R.1 to R.6

JUDGMENT

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This Civil Miscellaneous Appeal has been preferred against the award of Rs.17,60,000/- (Rupees Seventeen Lakhs and Sixty Thousand only) as compensation for the death of one A.Ponnusamy, aged about

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40 years, allegedly earning about Rs.15,000/- (Rupees Fifteen Thousand only), running the wood work industries, in the accident occurred on 10.07.2013, when he was riding his two wheeler along with his wife, the lorry which was coming from Thanjavur to Tiruvaiyaru in a rash and negligent manner, hit against the two wheeler causing the accident. Therefore, the claim petition.

2. On contest, the Tribunal found that the driver of the lorry insured with the appellant-Insurance Company was responsible for the accident and directed the appellant-Insurance Company to pay the compensation

3. Aggrieved over the quantum of compensation alone, the appellant-Insurance Company has come up before this Court.

4. Heard Mr.D.Sivaraman, learned Counsel for the appellant-Insurance Company and Mr.K.M.Karunakaran, learned Counsel for the respondents 1 to 6/claimants.

5. Since the quantum alone is in question and the appellant-Insurance Company has not challenged the finding regarding the negligence, it has reached the finality.

6. It is argued on behalf of the appellant-Insurance Company that Rs.1,00,000/- (Rupees One Lakh only) each awarded to each of the minor respondents 2 to 4/children of the deceased, is on the higher side. Apart from that, a sum of Rs.50,000/- (Rupees Fifty Thousand only) each awarded to the parents of the deceased is also on the higher side.

7. However, a close perusal of the award, especially, paragraph 15, would reveal that the Tribunal merely followed the dictum of the Honourable Supreme Court in ***Neeta and others v. Divisional Manager, Maharastra State Road Transport Corporation*** reported in ***2015 ACJ 598***, wherein the minor children of the deceased therein were granted a sum of Rs.1,00,000/- (Rupees One Lakh only) each and therefore, the award of Rs.1,00,000/- (Rupees One Lakh only) each to the respondents 2 to 4 herein cannot be interfered with and accordingly, the same is confirmed.

8. As far as the award of Rs.50,000/- (Rupees Fifty Thousand only) each to the parents of the deceased is concerned, similarly, the parents of the deceased were awarded a sum of Rs.50,000/- (Rupees Fifty Thousand only) each as per the above said judgment of the Honourable Supreme Court and therefore, there is no illegality in awarding the said amount and accordingly, the award of Rs.17,60,000/- (Rupees Seventeen Lakhs and Sixty Thousand only) awarded by the Tribunal including the amounts awarded under the other heads, is very reasonable. However, the rate of interest

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awarded by the Tribunal at 9% per annum is on the higher side and therefore, the same is reduced to 7.5% per annum as the accident occurred on 10.07.2013.

9. Further, the apportionment made by the Tribunal is not fair as the first respondent/wife needs more money to bring up the minor children and therefore, a sum of Rs.3,52,000/- (Rupees Three Lakhs and Fifty Two Thousand only) awarded to the first respondent/wife is enhanced to a sum of **Rs.6,60,000/-** (Rupees Six Lakhs and Sixty Thousand only). Similarly, a sum of Rs.3,52,000/- (Rupees Three Lakhs and Fifty Two Thousand only) each awarded to the minor respondents 2 to 4/minor claimants 2 to 4 is reduced to a sum of **Rs.2,50,000/-** (Rupees Two Lakhs and Fifty Thousand only) each and a sum of Rs.1,76,000/- (Rupees One Lakh and Seventy Six Thousand only) each awarded to the parents of the deceased is reduced to a sum of **Rs.1,75,000/-** (Rupees One Lakh and Seventy Five Thousand only) each.

10. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed;

(ii) The respondents 1 to 6/claimants 1 to 6 are entitled to a sum of **Rs.17,60,000/-** (Rupees Seventeen Lakhs and Sixty Thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(iii) Each of the respondents 1 to 6/claimants 1 to 6 are entitled to get their respective share amounts as per the apportionment made by this Court;

(iv) The respondents 1 to 6/claimants are directed to submit their Savings Bank Account Details along with the copies of their passbooks to the Tribunal **forthwith**;

(v) The appellant-Insurance Company is directed to deposit the entire award amount along with accrued interest and proportionate costs to the credit of M.C.O.P.No.1337 of 2013, before the Motor Accident Claims Tribunal - cum - Special District Court, Thanjavur, within a period of **six weeks** from the date of receipt of a copy of this judgment;

(vi) On such deposit, the Tribunal is directed to transfer the respective share amounts of the respondents 1, 5 and 6/claimants 1, 5 and 6 directly to their Personal Savings Bank Account Numbers, through RTGS/NEFT system, after getting their Account Details, within a period of **two weeks thereafter**;

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(vii) Insofar as the respective shares of the minor appellants 2 to 4/claimants 2 to 4, the Tribunal shall deposit the same in an

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interest bearing Fixed Deposit in any one of the nationalised banks under the renewable scheme, till they attain majority and the first respondent/first claimant is permitted to withdraw the accrued interest once in three months for the welfare of the minor claimants 2 to 4;

(viii) In the facts and circumstances of the case, there shall be no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

rsb
To
1.The Special District Judge,
The Motor Accident Claims Tribunal - cum -
Special District Court, Thanjavur.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to MR.D.SIVARAMAN, Advocate SR.No.9915
+1 cc to MR.K.M.KARNUNAKARAN, Advocate SR.No.9635

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and
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SMA/SKN-RSK/15.03.2017:4P/5C

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