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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A.NO.2055 OF 2014
AND M.P.NO.1 OF 2014

Reliance General Insurance Company Ltd.,
100 Feet Road, Vivyan Plaza,
Ground Floor, Mudaliyarpeta,
Puducherry - 605 004

.... Appellant/
2nd Respondent

..vs..

1. Malarkodi
2. Indupriya
3. Devipriya
4. Saravanapillai
5. Sivapayee
6. S.Rajkumar
(RR2 and 3 declared as
major vide order of this
court dated 20.09.2018
made in CMA.No.2055 of 2014)

..Respondents/Petitioners/
1st Respondent

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, against the award in MCOP No.144 of 2012 dated 26.09.2013 on the file of Motor Accidents Claims Tribunal, III Additional District and Sessions Court, Kallakurichi.

For Appellant : Mr.S. Arun Kumar

For R1 to R5 : Ms.Sripriya for
M/s.V.Raghavachari

For R6 : Not ready in notice



JUDGMENT

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

Challenge in this appeal, filed by the Reliance General Insurance Company Limited, is to the Award dated 26.09.2013 in MCOP No.144 of 2012 passed by Motor Accidents Claims Tribunal, III Additional District and Sessions Court, Kallakurichi, granting a sum of Rs.17,85,000/- for the death of one Manivel in the motor accident that had occurred on 02.05.2010.

2. According to the claimants, while the said Manivel was riding a motorcycle bearing Registration No.TN.32/P-6905, the lorry, bearing Registration No.TN.28/E-1996, belonging to 6th respondent and insured with the appellant Insurance Company, driven by its driver in a rash and negligent manner hit against the deceased, resulting in the death of the said Manivel. The claimants also contended that the deceased Manivel was employed as a Driver and earning a sum of Rs.10,000/- per month and claimed a compensation of Rs.20,00,000/-.

3. The claim petition was resisted by the appellant Insurance Company contending that the accident was caused due to rash and negligent driving of the deceased who was riding the motor cycle at the time of accident. Hence, the Appellant Insurance Company is not liable to pay the compensation.

4. In order to prove their claim of the claimants, examined P.W.1 to P.W.4, of whom, P.W.2 is an eyewitness in this accident. On the side of the appellant Insurance Company, Ex.R.1 and R.2 were marked and R.W.1 and R.W.2 were examined.

5. The Tribunal, after considering the oral and documentary evidence adduced before it, came to the conclusion that the accident was caused due to rash and negligent driving of the driver of the lorry, insured with the appellant Insurance Company. Accordingly, the Tribunal fixed the entire liability on the appellant Insurance Company.

6. The Tribunal took monthly income of the deceased as Rs.10,000/- adding 30% towards future prospects, fixed a sum of Rs.13,000/- as the monthly income and arrived Rs.1,56,000/- as annual income. The Tribunal, after deducting 1/4th of the same towards personal expenses, arrived at Rs.1,17,000/- as loss of contribution by the deceased to his family. The Tribunal, based on the age of the deceased, namely 35 years at the time of accident, applied the multiplier '15' and calculated the loss of income at Rs.17,55,000/- (Rs. 1,17,000 x 15). Accordingly, the Tribunal awarded the said sum of Rs.17,55,000/- towards loss of



income to the family of the deceased.

7. Further, the Tribunal awarded a sum of Rs.10,000/- towards loss of love and affection; Rs.10,000/- towards loss of consortium and Rs.10,000/- towards funeral expenses and thus, the total award worked out to Rs.17,85,000/- with interest at 7.5% p.a. from the date of petition till the date of deposit. The break up of the details of the compensation awarded by the Tribunal are as follows:

Loss of income	:	Rs.17,55,000
Loss of Consortium to 1 st respondent	:	Rs. 10,000
Loss of love and affection to 2 nd and 3 rd respondents		Rs. 10,000
Funeral expenses	:	Rs. 10,000

Total		Rs. 17,85,000/-

Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant Insurance Company is before this Court with the present appeal.

8. Mr.S. Arun Kumar, learned counsel appearing for the appellant Insurance Company submitted that the Tribunal was not right in fixing the entire negligence on the driver of the lorry. He would point out that there are certain discrepancies regarding the direction of the vehicles when the accident occurred in the evidence on record.

9. We have gone through Ex.P.1 First Information Report and the evidence of P.W.2 who is the eyewitness to the occurrence.

10. Of course, there are discrepancies regarding direction of the vehicles. But there is no dispute with reference to the accident. Hence, we do not think that we should disturb the finding of the Tribunal regarding negligence based on the discrepancies in the direction.

11. The learned counsel also submitted that the Tribunal was not right in fixing the monthly income of the deceased as Rs.10,000/- in the absence of any documentary evidence. But, we find that the Tribunal has added only 30% towards future prospects and the amounts awarded by the Tribunal towards conventional charges i.e., Rs.10,000/- towards loss of love and affection; Rs.10,000/- towards loss of consortium and Rs.10,000/- towards funeral expenses are below par. We, therefore, do not think that any re-working of the Award is



necessary as the result would be the same. Therefore, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

12. It is stated by the learned counsel appearing for the Insurance Company that the entire award amount has been deposited by them. The Tribunal has also apportioned the amount. The minor claimants have attained majority. Therefore, all the claimants are permitted to withdraw the amount, as apportioned by the Tribunal.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sr

To

1. Motor Accidents Claims Tribunal,
III Additional District and Sessions Court,
Kallakurichi.
2. The Section Officer,
VR Section, High Court,
Madras (2 Copies)

+1cc to M/s.V.Raghavachari, Advocate, S.R.No.65364

C.M.A.No.2055 of 2014

CSL(CO)
CS/24/12/2018