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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3132 of 2007

and

M.P.No.2 of 2007

The National Insurance Co.Ltd.,
Third Party Motor Claims Cell
No.751, Anna Salai
Chennai-600 002.

... Appellant /2nd Respondent

Vs

1.Anbukodi
2.Mahalakshmi @ Panchavarnam
3.Jayamurugan
4.Jayaselvi
5.Murugeshwari
6.Manikandan
7.Balachander
8.Minor Essaki Thangam
9.Minor Umadevi

(Minor respondents 8 and 9 rep.through
their mother, the first respondent
Anbukodi).

... Respondents 1 to 9/Claimants 1 to 9

10.K.Diwakar

...10th Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 26.03.2007 made in MACTOP No.371 of 2004 on the file of the Motor Accidents Claims Tribunal (Subordinate Court, Ponneri).

For Appellant : Mr.S.Vadivel

For Respondents : No appearance

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.5,95,000/- towards compensation to the respondents 1 to 9 / claimants, due to the death of the husband of the first respondent in a motor vehicle accident.



2.The case in brief, is as follows:

On the fateful day, ie. on 30.03.2004 at 00.30 hours (mid night of 29.03.2004), the deceased Ganesan, who was working under Larsen & Toubro Co.Ltd., and engaged in the widening of the National Highways-5 Road being implemented by the Government of India, was handling the welding generator at 38/1 Bridge near Kilmudalambedu Village, Tiruvallur District, along with some other employees. At that time, a container lorry bearing Reg.No.TN-04-J-9095 proceeding from Chennai towards Gummidipoondi, came in a rash and negligent manner and dashed against the deceased and other persons. Due to the said impact, the deceased died on the spot. The legal heirs of the deceased filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.5,95,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has disputed only the quantum of compensation awarded by the Tribunal. He submitted that the amounts awarded towards various heads are excessive and exorbitant. The learned counsel has not disputed the negligence aspect.

5.There is no representation on behalf of the respondents.

6.The deceased was working as a welder in the Larsen & Toubro Company and was earning a sum of Rs.5,000/- per month. Considering the Post Mortem Report marked as Ex.P7, wherein the age of the deceased has been stated as 45, the Tribunal concluded the age of the deceased as 45. Since no documents have been filed as regards the income of the deceased, the Tribunal came to the conclusion that a normal 45-year old person, working as a welder in a company, would have earned not less than Rs.4,500/- per month. Thereafter, the Tribunal deducted 1/3rd of the amount towards personal expenses of the deceased, adopted the multiplier of 15 and arrived at the sum of Rs.5,40,000/- towards contribution of the deceased to the family. The Tribunal has correctly analysed the loss of contribution of the deceased to the family by adopting the correct multiplier and arrived at the sum of Rs.5,40,000/-. Hence, this Court is not inclined to interfere with the same. The Tribunal has awarded a sum of Rs.5,000/- towards transport to hospital and also towards transportation of the dead body to the native place for funeral purposes. The Tribunal has also awarded a sum of Rs.10,000/- towards funeral expenses, Rs.15,000/- towards loss of consortium to the wife of the deceased and Rs.25,000/- towards loss of love and affection. The amounts awarded by the Tribunal under the



above heads are very reasonable and hence the same are confirmed.

7. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The minor respondents 8 and 9 would have attained majority by now. Hence, on such deposit being made, the respondents 1 to 9 / claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Motor Accidents Claims Tribunal
(Subordinate Court, Ponneri).

2. The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.S.Vadivel, Advocate, S.R.No. 49029

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VBA (CO)
GN(26/11/2019)