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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.3357 of 2010 and

M.P.No.1 of 2010

The Branch Manager,
The New India Assurance Co. Ltd.,
Zonal Office, Kumaran Complex,
Kumaran Road, Tiruppur

... Appellant/3rd Respondent

Versus

1. S. Murugesan

2. M. Karunambal

3. M. Gunasekaran

4. M. Gomathi

... 1 to 4 Respondent/Petitioner

5. R. Eswaran

6. M/s. Ramakrishna Dying works,
represented by its Proprietor S.Natarajan,
Son of Sivasubramaniam,
Door No. 635, Aanaipalayam,
College Road, Tiruppur.

... 5th & 6th Respondents/Respondents 1 & 2

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 22.06.2004 passed in M.C.O.P.No. 394 of 2000 on the file of V Additional District Fast Track Court, Motor Accidents Claims Tribunal, Coimbatore at Tiruppur.

For Appellant :Mr.R. Neethi Perumal
For Respondents :K. Govi Ganesan
1 to 4

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal, in MCOP No.394 of



2000 dated 22.06.2004, the New India Assurance Company has preferred this Civil Miscellaneous Appeal.

2. The accident occurred on 16.11.1999. One person named Bhoopathi, who is the son of the first and second respondent herein was riding the bicycle in Tirupur to Avinasi Road at that point of time a lorry bearing Registration No. TN-39-F-7882, came in the opposite direction and dashed the deceased Bhoopathi and caused grievous injuries, in the result he died on the spot itself. The accident occurred only due to the rash and negligent act of the driver of the lorry. Hence, the respondents 1 to 4 herein, have filed the M.C.O.P.No.394 of 2000, before the Motor Accident Claims Tribunal, seeking compensation for a sum of Rs.7,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.7,47,040/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the New India Assurance Company has filed this appeal.

4. Heard the arguments of counsel for the appellant and perused the materials available on record. Though notice was ordered to the respondents and the same is yet to be completed for service.

5. As far as the award of compensation is concerned, the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

6. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. Since, the Tribunal applied its mind properly and granted the award with the correct head which is well considered order.

7. In the result,

(a) this appeal is dismissed and the Judgment and Decree of the Tribunal in M.C.O.P.No.394 of 2000, dated 22.06.2004 is confirmed.

(b) the appellant/Assurance company is directed to deposit amount as awarded by the Tribunal with the interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this order.

(c) On such deposit the respondents one to four are permitted to withdraw and disburse the amount as per the directions of the Tribunal, by way of filing proper application before the Tribunal.



(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To:

1.The V Additional District Judge,
Fast Track Court,
Motor Accidents Claims Tribunal, Coimbatore at Tiruppur.

Copy to:

The Section Officer,
V.R Section,
High Court, Madras

+1cc to Mr.K.Govi Ganesan, Advocate sr.10468
+1cc to Mr.R. Neethi Perumal, Advocate sr.10180

C.M.A. No.3357 of 2010
M.P.No.1 of 2010

kk(co)
nr 16/10/2019