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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3253 of 2011

and

M.P.No.1 of 2012

National Insurance Company Limited,
Vellore

... Appellant

Vs.

1.Dr.K.Senniyappan
2.Susi Senniyappan
3.P.Selvaraj

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 21.06.2011 made in M.C.O.P.No.240 of 2005 on the file of the Motor Accidents Claims Tribunal (Sub-Court), Cheyyar, Thiruvannamalai District.

For Appellant : Mr.D.Bhaskaran

For R1&R2 : Mr.S.Vijayakumar

For R3 : Not ready in notice

JUDGMENT

The 2nd respondent-Insurance Company before the Tribunal, is the appellant herein. This Civil Miscellaneous Appeal has been filed against the order and Decree dated 21.06.2011 made in M.C.O.P.No.240 of 2005 on the file of the Motor Accidents Claims Tribunal (Sub-Court), Cheyyar, Thiruvannamalai District.

2. The respondents 1&2 herein filed claim petition before the Tribunal alleging that on 16.06.2005 at about 1.10hrs., near Annakulam at Chidambaram, the lorry bearing Registration No.KA 16 9297 which came in a very rash and negligent manner, dashed with Hundai car bearing Registration No.TN 20 AE 7074. The deceased S.Prasath who is in the Hundai car was seriously injured and he died on the spot itself. The accident occurred only due to rash and negligent driving of the said lorry. Hence, the owner of the lorry and the Insurance Company are jointly and severally liable to pay compensation to the respondents 1&2/claimants.



3. After trial, the Tribunal has awarded a sum of Rs.16,07,000/- and challenging the said award, the appellant-Insurance Company has preferred this appeal.

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4. After hearing both the parties for sometime and also taking note of the fact that the deceased was a student of the Second Year M.B.B.S in the private Medical College in Tamil Nadu, the Tribunal has come to the conclusion regarding the prospective income of the deceased and arrived at a sum of Rs.15,60,000/- for loss of income by adopting the multiplier by '12'.

5. The learned counsel for the Insurance Company would submit that Rs.1,000/- per month income fixed by the Tribunal is on higher side.

6. On the contrary in view of the decision of the Constitution Bench of the Honourable Supreme Court of India in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 601, the age of the parents should not be the criteria and therefore, considering the change in the law and also re-assessment, the quantum of compensation has been arrived at based on the materials on record, I am not inclined to allow the claim of the Insurance Company and in this view of the matter, even after re-assessment and taking into consideration the new change in the adoption of multiplier method, the compensation already awarded by the Tribunal appears to be more or less the same and as such, the compensation as awarded by the Tribunal is held to be not on the higher side.

7. Accordingly, this Civil Miscellaneous Appeal is dismissed. The Insurance Company shall deposit the compensation if not deposited already, before the Tribunal within a period of four weeks from the date of receipt of a copy of this order. It is open to the claimant to file petition before the Tribunal for withdrawal of the compensation amount. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar



To

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1.The the Motor Accidents Claims Tribunal
(Sub-Court),Cheyyar,
Thiruvannamalai District.

2.The Record Keeper,
High Court, Chennai. (2 Copies)

+1cc to Mr.D.Bhaskaran, Advocate Sr.16523

+1cc to Mr.S.Vijayakumar, Advocate Sr.16528

C.M.A.No.3253 of 2011 and
M.P.No.1 of 2012

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srg 28/11/2019