



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.300 of 2018

1.Premavathi

2.Jayasudha

3.Prakash

.. Appellants /Petitioner

Vs.

1.Rajasekaran

2.Reliance General Insurance Co., Ltd.,

No.408, 3rd Floor,

Perundurai Road, Erode

.. Respondents /Respondents

(Notice to R1 may be dispensed with

for the set ex-parte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 19.08.2017, made in M.C.O.P.No.723 of 2011, on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

For Appellants : Mr.T.S.Arthanareeswaran

For R2 : No appearance

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellants/claimants seeking enhancement of compensation granted by the Tribunal in the award dated 19.08.2017, made in M.C.O.P.No.723 of 2011, on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

2.The appellants are claimants in M.C.O.P.No.723 of 2011, on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari. They filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Rajamanickam, who died in the accident that took place on 01.09.2011. The Tribunal, considering the pleadings, oral and



documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Taurus lorry belonging to the 1st respondent and directed the 2nd respondent-Insurance Company being insurer of the said lorry to pay a sum of Rs.17,86,000/- as compensation to the appellants. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

3.The learned counsel for the appellants contended that the Tribunal erred in awarding a meager amount as compensation not in consonance with the facts and circumstances of the case. The Tribunal erroneously fixed meagre amount towards salary of the deceased. The Tribunal has not awarded any amount towards loss of estate and prayed for enhancement of compensation.

4.Though notice was served on the 2nd respondent-Insurance Company and their name is printed in the cause list, there is no representation on behalf of them either in person or through counsel.

5.Heard the learned counsel appearing for the appellants and perused the materials available on record.

6. From the materials available on record, it is seen that it is the contention of the appellants that accident occurred only due to rash and negligent driving by the driver of the lorry belonging to the 1st respondent. The appellants have contended that they are the legal heirs of the deceased by marking Ex.P7. The FIR was lodged only against the driver of the lorry. In the absence of any contra evidence, the Tribunal accepted the evidence of P.W.2, P.W.3, P.W.4 and FIR and held that the accident has occurred only due to rash and negligent driving by the driver of the lorry belonging to the 1st respondent. The deceased was aged 55 years at the time of the accident. The Tribunal has applied correct multiplier '11'. The Tribunal considering the age and avocation of the deceased, has fixed notional income and awarded compensation under different heads, which are not meagre warranting interference by this Court.

7.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.17,86,000/- awarded by the Tribunal as compensation to the appellants/claimants, along with interest and costs is confirmed. The 2nd respondent-Insurance Company is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.723 of 2011. On such deposit, the appellants are permitted to withdraw their



respective share of the award amount, on the basis of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

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-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To
1.The Subordinate Judge,
(Motor Accident Claims Tribunal),
Sankari.

2.The Section Officer,
VR Section,
High Court,
Madras.
+2 cc to M/s.C.Paraneedharan Advocate sr20861

C.M.A.No.300 of 2018

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