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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.A.NO.216 OF 2020

AND

C.M.P.NO.1641 OF 2020

The Branch Manager,
Reliance General Insurance Co. Ltd.,
II Floor, Raj Tower,
Plot No.2054, II Avenue,
Chennai.

... Appellant/2nd Respondent

vs

1. R.Kaliyaperumal
2. K.Rajeswari
W/o.Kaliyaperumal
3. K.Radha
W/o.Late Krishnamurthi
4. Senthil Kumar

... Respondents/Petitioner 1 to 3/
1st Respondent

Prayer:-

Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.08.2019 passed in M.C.O.P.No.900 of 2014 on the file of Motor Accident Claims Tribunal, Special Sub Court II, Small Causes Court, Chennai.

For Appellant : Ms.C.Bhuvanasundari

For Respondents : Mr.P.V.Sudhakar [R1 to R3]
Ex parte [R4]



JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J]

This matter is heard through Video-Conferencing.

2. For the sake of convenience, appellant herein is referred to as 'Insurance Company' and respondents 1 to 3 herein are referred to as 'Claimants'.

3. Challenging the quantum of compensation awarded by the Tribunal in and by its judgment and decree dated 01.08.2019 passed in M.C.O.P.No.900 of 2014 on the file of Motor Accident Claims Tribunal, Special Sub Court II, Small Causes Court, Chennai, the Insurance Company has filed the present appeal.

4. The brief facts of the case are as follows:

Claimants are parents and wife of deceased Krishnamoorthy. On 23.10.2013 at about 17.05 hours, while the deceased was riding his two-wheeler bearing Registration No.TN-03-B-3175 on the T.H.Road, New Washermenpet, a Lorry bearing Registration No.TN-32-V-9923 came in a rash and negligent manner and dashed against the two-wheeler of the deceased, due to which the deceased sustained grievous injuries and died. Hence, claimants filed a claim petition seeking compensation in a sum of Rs.25,00,000/- for the death of the deceased.

5. Resisting the claim made by claimants, Insurance Company has filed a detailed counter statement inter alia contending that the accident had not occurred in the manner as projected by claimants. They have also denied the age, occupation and income of the deceased. Thus, they prayed for dismissal of the claim petition.

6. To prove their claim, on the side of claimants, father of the deceased/first respondent was examined as PW-1 and one Arumugam was examined as PW-2 and 18 documents were marked as Exs.P1 to P18. On the side of Insurance Company, none were examined and no exhibits were marked.

7. On appreciation of materials and the evidence on record, the Tribunal arrived at a finding that the accident had occurred due to the rash and negligent driving of the Lorry bearing Registration No.TN-32-V-9923. On coming to such a finding, the Tribunal directed the Insurance Company, as insurer of the offending vehicle, to pay compensation. The Tribunal awarded a sum of Rs.19,24,100/- as compensation. The break-up details are as follows:



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Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of dependency	17,74,080/-
2.	Loss of filial consortium	80,000/-
3.	Loss of consortium	40,000/-
4.	Loss of estate	15,000/-
5.	Funeral expenses	15,000/-
	Total	19,24,080/-
	Rounded off to	19,24,100/-

The said sum of Rs.19,24,100/- was directed to be paid together with interest at 7.5% p.a. from the date of claim petition till the date of realisation. Questioning the quantum of compensation, the Insurance Company has filed the present appeal.

8. Learned counsel for Insurance Company submits that though it is the case of claimants, before the Tribunal, that the deceased was the proprietor of M/s.Vinayaka Traylor and Turning Works and was earning Rs.50,000/- p.m., no documents such as Bank Account Statement and Income-Tax Returns of the deceased had been produced. However, the Tribunal had fixed the monthly income of the deceased at Rs.9,900/- and awarded an exorbitant sum of Rs.17,74,080/- as compensation under the head 'loss of dependency'. Hence, learned counsel prays this Court to modify the compensation amount.

9. On the other hand, learned counsel for claimants made his submissions supporting the award passed by the Tribunal.

10. This Court has considered the rival submissions. Perused the materials on record.

11. Since only the quantum of compensation is challenged in the present appeal, this Court is not dealing with the other aspects of the award passed by the Tribunal.

12. On a perusal of the award under challenge, this Court finds that the Tribunal had arrived at a finding that the claimants had duly established that the deceased was the proprietor of M/s.Vinayaka Traylor and Turning Works through Ex.P7 - Certificate of the said company. Though it was the evidence of PW-2 that the deceased was earning a sum of Rs.50,000/- p.m., the Tribunal had fixed the monthly notional income of the deceased only at Rs.9,900/- on the reasoning that the claimants had not produced the Bank Account Statement and



Income-Tax Returns of the deceased to establish that he was earning Rs.50,000/- p.m. Since the deceased was aged 31 at the time of accident, the Tribunal added 40% towards future prospects and fixed the total monthly income at Rs.13,860/- [9900 + 3960] and arrived at annual income at Rs.1,66,320/- [13860 * 12] and since the claimants are three in number, deducted 1/3 towards personal expenses, which works out to Rs.1,10,880/- [166320 - 55440], applied multiplier '16' and arrived at compensation in a sum of Rs.17,74,080/- [110880 * 16] under the head 'loss of dependency'. This Court finds that the approach adopted by the Tribunal in arriving at the compensation under the head 'loss of dependency' is well-justified. The amount awarded under the other heads is also just and reasonable.

13. This Court finds that the award passed by the Tribunal is in accordance with the principles laid down by the Honourable Supreme Court as well as by various High Courts and the same does not require any interference by this Court. Accordingly, the award of the Tribunal, which is under challenge in the present appeal, is hereby confirmed.

In the result, the Civil Miscellaneous Appeal is dismissed. The Insurance Company is directed to deposit the compensation of Rs.19,24,100/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. On such deposit being made by Insurance Company, Respondents 1 to 3/claimants are permitted to withdraw their respective shares, as apportioned by Tribunal, along with accrued/proportionate interest and costs, less the amount, if any already withdrawn by them, by filing necessary application before the Tribunal. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

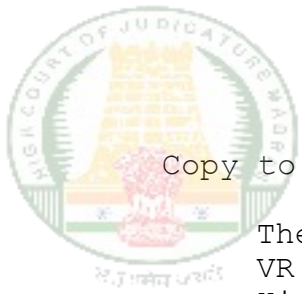
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Sub Assistant Registrar

gm

To

1. The Motor Accident Claims Tribunal,
The II Special Subordinate Judge,
Small Causes Court,
Chennai.



Copy to

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

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C.M.A.NO.216 OF 2020

AJS (CO)
PBS (27/07/2021)