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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1326 of 2021
and C.M.P.No.6703 of 2021

M/s.Cholamandalam MS General
Insurance Company Limited,
Dare House, 2nd Floor,
No.2, NSC Bose Road, Chennai. .. Appellant/ 3rd Respondent

Vs.

1. Prema
2. Neka (Minor)
(Rep. by Mother and NF R1)
3. Rithi (Minor)
(Rep. by Mother and NF R1)
4. Palanisamy.
5. Gandhimathi .. Respondents 1 to 5/ Claimants
6. T.A.Pinil
7. P.V.Rajan .. Respondents 6 & 7/ Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set side the Judgement and Decree made in MCOP No.321 of 2018, dated 24.03.2020, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Kangayam.

For Appellant : Mr.E.Rajadurai
for M/s.M.B.Gopalan Associates

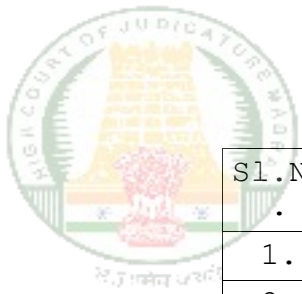
For Respondent : Not Ready Notice

JUDGMENT

(The case has been heard through video conference)

This appeal has been filed by the insurance company challenging the quantum of compensation awarded by the Tribunal made in the impugned Award dated 24.03.2020, passed by the Motor Accidents Claims Tribunal, Subordinate Court, Kangayam in M.C.O.P.No.321 of 2018.

2. The Tribunal under the impugned Award directed the appellant insurance company to pay compensation of Rs.17,21,000/- to the respondents/claimants as detailed below:



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Sl.No	Heads	Amount in Rs.
1.	Loss of dependency (6,750x16x12)	12,96,000
2.	Consortium	50,000
3.	Loss of love and affection	2,50,000
4.	Funeral expenses	25,000
5.	Loss of guidance (50,000 x2)	1,00,000
	Total	17,21,000

3. The cause of the accident has not been disputed by the appellant insurance company in this appeal. The only point for consideration is whether the quantum of compensation awarded by the Tribunal is excessive or not.

4. As seen from the Award, the Tribunal has fixed the notional monthly income at Rs.9,000/-. According to the claimants, the deceased was a proprietor of a power loom concern. The accident happened in the year 2014. Therefore, this Court is of the considered view that the determination of notional monthly income at Rs.9,000/- cannot be considered to be excessive as challenged by the appellant. The deceased was aged 34 years at the time of accident and the Tribunal has rightly adopted 16 multiplier. The loss of dependency assessed by the Tribunal at Rs.12,96,000/- cannot be considered to be excessive as alleged by the appellant insurance company. Even though the compensation awarded by the Tribunal under various heads like loss of love and affection, funeral expenses, loss of guidance and consortium may be on the higher side, this Court is of the considered view that since loss of future prospects having been granted to the respondents/claimants, which they are legally entitled to the overall compensation of Rs.17,21,000/- awarded by the Tribunal to the respondents/claimants cannot be considered to be excessive. Therefore, there is no merit in this appeal and accordingly this appeal is dismissed. The respondents/claimants are permitted to withdraw the award amount along with interest and costs, less the amount, if any, already withdrawn by making necessary applications before the Tribunal. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



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To

1. The Subordinate Judge,
The Motor Accidents Claims Tribunal,
Kangayam.

C.M.A.No.1326 of 2021
and C.M.P.No.6703 of 2021

SSI (CO)
SB (23/11/2021)