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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1518 of 2016  
and  
C.M.P.No.11590 of 2016

The National Insurance Co.Ltd.,  
Branch Office- II,  
312, Jawaharlal Nehru Street,  
1st Floor, Pondicherry - 1.

...Appellant/3<sup>rd</sup> Respondent

Vs

1.Ramalakshmi

2.Lamitha (Minor)  
rep.by her mother Ramalakshmi

..Respondents 1 & 2/Petitioners

3.V.Veerangan

4.V.Kumaran ...Respondents 3 & 4/Respondents 1 & 2  
(Respondents 3 & 4 are set  
exparte in the Lower Court).

PRAYER : The Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the Award dated 03.12.2009 made in MACT O.P.No.845 of 2002 on the file of the Motor Accident Claims Tribunal (II Additional District Judge) (presiding officer) at Pondicherry.

For Appellant : Ms.R.Sree Vidhya

For Respondent : Mrs.V. Kamala Kumar  
Nos.1 & 2

Respondent Nos.3 & 4 : Exparte

J U D G M E N T

This civil miscellaneous appeal has been filed by the Insurance Company challenging the award dated 03.12.2009 passed by the Motor Accident Claims Tribunal, Second Additional District Judge, Pondicherry in MCOP No.845 of 2002.



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2.The Tribunal in the impugned award directed the appellant /Insurance Company to pay the claimants a compensation of Rs.7,70,800/- together with interest at 7.5% per annum as detailed hereunder:

| S1 . | Heads                                                                                                                                            | Amount awarded by the Tribunal (Rs.) |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| 1.   | For loss of income - by applying the multiplier as 12 and after deducting $\frac{1}{3}^{\text{rd}}$ (Rs.7,800/- - Rs.2,600/- =Rs.5,200 x12 x 12) | 7,48,800                             |
| 2.   | Funeral expenses                                                                                                                                 | 5,000                                |
| 3.   | Consortium                                                                                                                                       | 5,000                                |
| 4.   | Love & affection (Rs.5,000/- for each petitioner)                                                                                                | 10,000                               |
| 5.   | Transport charges                                                                                                                                | 2,000                                |
|      | Total                                                                                                                                            | 7,70,800                             |

3.The appellant /Insurance Company primarily challenged the impugned award on the ground that the quantum of compensation awarded by the Tribunal is excessive.

4.Heard Ms.R.Sree Vidhya, learned counsel for the appellant/Insurance Company and Mrs.V.Kamala Kumar, learned counsel for the respondents 1 & 2 and this Court has perused the materials and evidence available on record before the Tribunal.

5.The deceased Munusamy died as a result of an accident caused by a vehicle insured with the appellant/Insurance Company. The cause of the accident has not been disputed by the appellant/Insurance Company before the Tribunal and they have challenged the award only on the ground that the quantum of compensation awarded by the Tribunal is excessive. The deceased Munusamy was a load man aged 35 years, when the accident happened on 26.06.2002. The Tribunal has assessed the monthly income of the deceased at Rs.6,000/- and has also awarded loss of future prospects to the claimants. The Tribunal has awarded a total compensation of Rs.7,48,800/- towards loss of income to the claimants by adopting the multiplier as "12".

6.In the claim petition filed before the Tribunal, the claimants have made a claim for a sum of Rs.8,53,000/-. But the Tribunal has fixed the total compensation payable to the



claimants at Rs.7,70,800/- comprising of Rs.7,48,800/- towards loss of income, Rs.5,000/- towards funeral expenses, Rs.5,000/- towards consortium, Rs.10,000/- towards love and affection and Rs.2,000/- towards transportation charges.

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7. Even though for an accident having taken place in the year 2002 and when the claimants have not produced any documentary evidence to prove that the deceased Munusamy was earning a sum of Rs.6,000/- per month, the fixation of the notional monthly income at Rs.6,000/- by the Tribunal may be on the higher side. But considering the fact that the compensation awarded by the Tribunal under various other heads viz., funeral expenses, consortium, love and affection and transportation charges are low, this Court is of the considered view that the total compensation of Rs.7,70,800/- awarded by the Tribunal under the impugned award cannot be considered to be excessive as alleged by the appellant / Insurance Company.

8. For the foregoing reasons, there is no merit in this appeal. Accordingly, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.A.C.T.O.P. No.845 of 2002 on the file of the Motor Accident Claims Tribunal at Pondicherry, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the respondents 1 & 2 / claimants through RTGS, within a period of two weeks thereafter as per the ratio of apportionment fixed by the Tribunal.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

sms/gv  
To

1. The Motor Accident Claims Tribunal,  
(II Additional District Judge) (presiding officer)  
at Pondicherry.



2.The Section Officer  
VR Section, High Court,  
Madras 104.

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+1 CC to M/s.R. Sreevidya, Advocate sr 34249.

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and  
C.M.P.No.11590 of 2016

RR(CO)  
SP(16/11/2021)