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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1924 of 2016

The Branch Manager,
The United India Insurance co. Ltd.,
Buvaneswari Complex, Dr.Sankaran Road,
Namakkal - 637 001. ...Appellant /Respondent No.2

Vs

1.Sumithra
2.Minor Lakshmi
Rep. by N.F.Mother Sumithra
3.Muniyammal
4.Sembugam ...Respondents 1 to 4/Petitioners
5.Selvam Broilers (P) Ltd.,
No.46, Co-Operative Colony,
Gandhi Nagar,
Mohanuv Road,
Namakkal - 637 001. ... Respondent 5/Respondent No.1

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the Judgment and Decree passed in MCOP.No.213 of 2014 on 29.06.2015 on the file of the Motor Accident Claims Tribunal, (Special District Judge) at Krishnagiri

For Appellant : Mr.J.Chandran

For Respondent 5 : No appearance

(1 to 4-No Appearance

JUDGMENT

This civil miscellaneous appeal has been filed by the Insurance company challenging the impugned award dated 29.06.2015 passed by the Motor Accident Claims Tribunal (Special District Judge) at Krishnagiri in MCOP.No.213 of 2014.



2. The Appellant insurance company has challenged the impugned award on the following grounds (a) the Appellant Insurance Company is not liable to pay compensation and (b) the quantum of compensation awarded by the Tribunal is excessive.

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3. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

Heads	Award Amount (Rs.)
Future loss of income	12,96,000/-
Loss of consortium for the first claimant who had lost her husband at the age of 22 years	1,00,000/-
Loss of love and affection to the minor claimant who had lost her father at the age just 5 months baby	1,00,000/-
Loss of love and affection to the claimants 3 & 4 who had lost their son in the evening of their life	20,000/-
Transport to hospital	10,000/-
Funeral Expenses	25,000/-
Total	15,51,000/-

4. Insofar as the first contention raised by the Appellant Insurance Company questioning its liability is concerned, the same cannot be accepted by this Court in view of the fact that no documentary evidence has been produced by them before the Tribunal to prove that the driver of the vehicle insured with the Appellant was under the influence of Alcohol. Further for the fault of the driver of the insured vehicle, it cannot be inferred that the deceased was also a tortfeasor who was the rider of the opposite motorcycle bearing registration No. TN70-J-6288. The Tribunal has rightly appreciated the evidence available on record and only thereafter, has held the Appellant Insurance Company liable to pay compensation to the claimants. This Court does not find any infirmity in the findings given by the Tribunal with regard to the said contention.

5. Insofar as the second contention raised by the Appellant/Insurance Company is concerned, the same also cannot be



accepted by this Court for the following reasons:

(a) The deceased Mani was a self employed person and the accident happened in the year 2014 and the Tribunal has rightly fixed his notional monthly income of the deceased at Rs.9,000/- which cannot be considered to be excessive even though, they have not produced any documentary evidence before the Tribunal to prove the monthly income of the deceased at the time of his death. Since the dependants namely, the wife, minor child and the parents of the deceased are four in number, the Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. The Tribunal has also rightly adopted 16 multiplier as the deceased was aged 31 years at the time of the accident. This Court, after giving due consideration to the year of the accident and the age and avocation of the deceased at the time of the accident, is of the considered view that the notional monthly income of the deceased fixed by the Tribunal at Rs.9,000/- and the assessment of the future loss of income by rightly adopting 16 multiplier and also by rightly deducting ¼ towards personal expenses of the deceased at Rs.12,96,000/- ($9000 - \frac{1}{4} = 6750 \times 12 = 81000 \times 16$) cannot be considered to be excessive and the same is confirmed by this court.

(b) The Tribunal has awarded a compensation of Rs.1,00,000/- towards loss of consortium to the wife of the deceased, Rs.1,00,000/- towards the loss of love and affection to the child of the deceased and Rs.25,000/- towards funeral expenses of the deceased, though may be on the higher side, but the Tribunal having not awarded any compensation towards future prospects to the claimants, the total compensation awarded by the Tribunal under the impugned award cannot be considered to be excessive as alleged by the Appellant Insurance company.

6. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The Appellant Insurance Company and the fifth respondent are directed to deposit the entire award amount, jointly or severally, after deducting the amount already deposited if any, together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs to the credit of MCOP.No.213 of 2014 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the respective share of award amount lying to the credit of MCOP.No.213 of 2014 to the bank account of the respondents 1, 3 & 4 through RTGS within a period of one week thereafter. Since the second respondent is a minor, her respective share of award amount lying to the credit of MCOP.No.213 of 2014 shall be deposited in interest bearing fixed deposit in any one of the



Nationalised Banks till she attains majority and her mother, the first respondent herein is permitted to withdraw the interest accrued once in six months, for the welfare of the minor. If she attains the age of majority, it will open for her file a formal petition to declare her as a major.

Sd/-

Assistant Registrar(CS-VII)

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Sub Assistant Registrar

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To

- 1.The Special District Judge
Motor Accident Claims Tribunal, at Krishnagiri
- 2.The Section Officer,
V.R.Section, High Court of Madras.

+1cc to Mr.J.Chandran, Advocate SR.No.44919

C.M.A.No.1924 of 2016

CA(CO)
CB(11/04/2022)