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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.3368 of 2021
and
C.M.P.No.19427 of 2021

M/s Reliance General Insurance Co., Ltd.,
Avinashi Road,
Coimbatore - 18.

...Appellant/3rd Respondent

Vs.

1.C.Poulinamary
2.Minor Sanjith
3.Minor Sanjana
4.Bhagayalakshmi
5.Balasubramani
6.K.Jamesha Ibrahim
7.Ummar Hathaf
(RR2 & 3 are minors rep by their
Mother C. Poulinamary)

...Petitioners 1 to 5 and 1,2 Respondents in
Tribunal below

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 20.03.2020 made in MCOP No.1113 of 2017 on the file of the Motor Accidents Claims Tribunal, V Additional District Judge, Coimbatore.

For Appellant : Mr.S.Arun Kumar

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

This appeal arises out of the order passed by the Motor Accident Claims Tribunal, V Additional District Judge, Coimbatore in MCOP No.1113 of 2017 dated 20.03.2020.



2.This is the case of fatal accident. The case of the claimants is that on 06.01.2017 at 19.00 hours, the deceased Chandrasekar was pedestrian from north to south at Thanner Pandal road in front of Raja Saloon, Coimbatore. At that time, a Honda bike bearing Reg.No.TN-99-8029 came from north to south direction in a rash and negligent manner and hit the deceased. In the impact, the deceased was sustained grievous injuries on the head. Immediately, he was taken to the C.M.C Hospital, where he died. The claimants are the legal heirs of the deceased. Alleging that the accident had taken place due to the rash and negligent riding of the rider of the Honda Bike, the claimants laid a petition, claiming compensation of Rs.30,00,000/-.

3.Resisting the claim, the rider of the two wheeler filed his counter stating that the rider of the two wheeler rode the vehicle in a very slow speed by obeying the traffic rules and the deceased was in drunken stage and dashed against the two wheeler. Since the deceased voluntarily invited the accident, the first respondent is not responsible for the accident.

4.Resisting the claim, the appellant Insurance Company filed their counter disputing the manner of accident, age, avocation and income of the deceased and its liability to pay the compensation. In the counter, it had been stated that the rider of the two wheeler had no proper valid driving licence to drive the vehicle at the time of accident. Further, there is no proof that the deceased was died because of the accident. Hence, the appellant Insurance Company has no liability to indemnify the first respondent's liability. It was also contended that the claim is excessive and exorbitant.

5.To substantiate the case, on the side of the claimants, P.Ws.1 to 3 were examined and Exs.P1 to Ex.P.13 were marked. On the side of the appellant/Insurance Company, R.W.1 one Vignesh, Legal Department was examined and Exs.R.1 to R3 were marked.

6.The Tribunal, after considering the oral and documentary evidence, held that the rider of the two wheeler was responsible for the accident and awarded compensation of Rs.31,21,700/- to the claimants. Assailing the award, the appellant Insurance Company has filed the present appeal.

7.Heard Mr.S.Arun Kumar, learned counsel appearing for the appellant Insurance Company and perused the materials available on record.



8.This appeal has been filed only challenging the quantum, hence, the other issues need not be dealt with herein.

9.Though the learned counsel appearing for the appellant/Insurance Company has contended that the award is on the higher side and it requires reduction, on perusal of the records, we find that the Tribunal, on proper appreciation of evidence of salary certificate (Ex.P.10), has fixed the monthly income and adopting correct multiplier awarded a just and reasonable compensation. Further, the quantum of compensation under remaining heads were fixed by the Tribunal by following the Judgments of the Hon'ble Supreme Court in the case of National Insurance Company Ltd., vs. Pranay Sethi and others reported in 2017(2) TNMAC 609 (SC) and Magma General Insurance Co. Ltd., vs. Nanu Ram and others reported in 2018(1) TN MAC 452 (SC), We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit.

10.For the foregoing reasons, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
V Additional District Judge, Coimbatore.

Copy to

The Section Officer
V.R.Section,
Madras High Court,
Chennai.

+1 CC to Mr.S. Arun Kumar, Advocate sr 63620.

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CA(CO)

SP(15/02/2022)