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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.11.2021

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

C.M.A.No.3170 of 2021
and C.M.P.No.17938 of 2021

Reliance General Ins. Co. Ltd
Tambaram Branch, No.14, Ramasamy Street
West Tambaram, Chennai - 600 045. ... Appellant/2nd Respondent

-vs-

1.Bhagya Lakshmi ...I,II,III & IV Respondents/
I, II,III & IV Petitioners
2.Vasantha
3.Minor G.Dipesh
(Minor rep by mother and next friend
Bhagya Lakshmi)
4.Satya ... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 24.06.2020 passed in M.C.O.P.No.5940 of 2015 by the Hon'ble Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For appellant : Ms.C.Bhuvanasundari
For respondents : Mr.K.Varadha Kamaraj for RR1-3

JUDGMENT

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

This Civil Miscellaneous Appeal is directed against the decree and judgment dated 24.06.2020 passed in M.C.O.P.No.5940 of 2015 by the Hon'ble Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

2.For the sake of convenience, parties herein are referred to as per their ranking in the claim petition.



3.It is the case of the claimants that on 05.04.2015, at 01.50 hours, the husband of the 1st claimant traveled as a passenger in the auto bearing Registration No.TN 05 U 1284. When the auto was reaching near Eachangadu signal, towards Kilkattalai on Medavakkam Main Road, a Tarus Lorry bearing Registration No.TN 11 C 8169 driven by its driver in a rash and negligent manner endangering the public life, hit against the auto. Due to that accident the auto rolled down and the deceased died on the spot. Hence the claimants laid a claim petition before the Tribunal for a compensation of Rs.95,00,000/-.

4.The claim petition was resisted by the 2nd respondent/Insurance Company by way of a counter, disputing the manner of accident, age, occupation, income of the deceased and its liability to pay the compensation.

5.To substantiate the claim, on the side of the claimants P.W's.1 to 3 were examined and Exs.P.1 to 25 were marked. On the side of the Insurance Company, neither the witnesses nor the exhibits were marked.

6.The Tribunal, after considering the oral and documentary evidence held that the driver of the 1st respondent was responsible for the accident and awarded a compensation of Rs.55,55,000/- along with interest at 7.5 % per annum.

7.Challenging the quantum of compensation awarded by the Tribunal, the appellant is before this Court with this Civil Miscellaneous Appeal.

8.It is the submission of the learned counsel for the appellant / Insurance Company that the Tribunal fixed an exorbitant sum of Rs.25,000/- as monthly income of the deceased without any valid proof and also awarded excessive amounts under different heads. Consequently, the sum of Rs.55,55,000/- awarded as compensation to the claimants, is on the higher side and the same needs proper reduction.

9.Per contra, the learned counsel for the respondents 1 to 3 / claimants made submissions in support of the conclusion reached by the Tribunal and prayed to dismiss the appeal.

10.We have carefully considered the rival submissions and perused the available records.



11.As rightly pointed out by the learned counsel appearing for the Insurance Company, the income fixed by the Tribunal is on higher side. Considering the evidence adduced by the claimants, this Court is of the view, it would appropriate to fix monthly income at Rs.15,000/-. There is no dispute that the deceased is entitled for 40% addition towards future prospectus and proper multiplier is "17". By adding 40% towards future prospects, the monthly salary of the deceased is arrived at Rs.21,000/- and $\frac{1}{3}$ rd of the amount is deducted towards personal expenses, and this Court fixes the contribution to his family at Rs.14,000/-. So, the loss of dependency would be Rs.28,56,000/- [14,000 x 12 x 17], by adopting multiplier "17". In addition to that, this Court is inclined to modify the award of the Tribunal under the conventional heads, viz., Rs.1,20,000/- towards Parental & Filial Consortium; Rs.15,000/- towards Funeral Expenses and Rs.15,000/- towards loss of Estate. In total, the claimants are entitled to Rs.30,06,000/-, which is rounded off to Rs.30,10,000/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of realization.

12.In the result, the Civil Miscellaneous Appeal is partly allowed and the award amount of Rs.55,55,000/- is reduced to Rs.30,10,000/-. The appellant/Insurance Company is directed to deposit the above modified award amount with accrued interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the major claimants are permitted to withdraw their share, less the amount already withdrawn, if any, together with proportionate interest and costs. The apportionment of shares are as follows:

- 1).1st claimant/wife of the deceased -Rs.15,00,000/-
- 2). 2nd claimant/mother of the deceased -Rs.5,00,000/-
- 3). minor child -Rs.10,10,000/-

Insofar as the 3rd claimant/minor child is concerned, his share shall be deposited by the Tribunal in any Fixed Deposit Scheme in any one of the Nationalised Banks and it shall be renewed periodically till he attains majority and the interest accrued thereon shall be withdrawn by the 1st claimant / mother once in three months. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(I)

// True Copy //

Sub Assistant Registrar



To

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The Motor Accident Claims Tribunal,
II Court of Small Causes, Chennai.

Copy to: The Section officer,
V.R.Section,
High Court, Madras.

+lcc to Mr.K.Varadhakamaraj, Advocate SR.No.57549

C.M.A.No.3170 of 2021

MG(CO)
CB(28/12/2021)