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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM:

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

C.M.A.NO.2147 OF 2021

AND

C.M.P.NO.11871 OF 2021

M/s Reliance General Insurance Company Limited,
Reliance House, Legal Department,
VI Floor, No.6, Haddows Road,
Nungambakkam,
Chennai - 600034.

...Appellant/2nd Respondent

Vs.

1.B.Banumathy

2.B.Santhosh (minor)

3.B.Lekhachree (minor)

(R2 and R3 are rep.

By Mother and Next Friend,
the 1st respondent)

4.E.Devaraj

5.D.Sujatha

...Respondents 1 to 5 / Petitioners 1 to 5

6.D.Rajasekar

...6th Respondent / 1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree made in MCOP No.6216 of 2016 dated 29.10.2020, on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court No.1, Small Causes Court, Chennai.

For Appellant : Mr.M.B.Raghavan

For Respondents : Mr.R.Thirugnanam(for R1 to R5)

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, Special Subordinate Court No.1, Small Causes Court, Chennai in MCOP No.6216 of 2016.



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2.This is the case of the fatal accident. The case of the claimants is that on 12.08.2016 at 20.20 hours, when the deceased D.Balaji was cycling on Melnallthur Near Kettar Bills company 4th Gate and Muslim Burial Ground Road, the 6th respondent's Max Cab bearing Reg.No.TN-22-DA-6914 driven by its driver in a rash and negligent manner with a terrific speed, endangering the public safety, hit the rear side of the bicycle. In the accident, the deceased was thrown out from the cycle and sustained multiple severe head injuries and injuries all over his body and died. The claimants are legal heirs of the deceased. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the maxi cap van, the claimants laid a petition, claiming compensation of Rs.75,00,000/-.

3.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. It was also contended that the claim is excessive.

4.To substantiate the case, on the side of the claimants, P.Ws.1 to 3 were examined and Exs.P1 to Ex.P25 were marked. On the side of the appellant/Insurance Company, R.W.1, one R.Karthick, Assistant Manager of the Insurance Company was examined and Exs.R1 to R5 were marked.

5.The Tribunal, after considering the oral and documentary evidence held that the driver of the Maxi Cap belonging to the 6th respondent herein was responsible for the accident and awarded compensation of Rs.27,32,100/- to the claimants. Assailing the award, the appellant Insurance Company has filed the present appeal.

6.Heard Mr.B.Raghavan, learned counsel appearing for the appellant Insurance Company, Mr.R.Thirugnanam, learned counsel appearing for the respondents 1 to 5/claimants and perused the materials available on record.

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

8.Though the learned counsel appearing for the appellant/Insurance company has contended that the award is on the higher side by wrongly fixing excessive monthly income of Rs.14,857/- and it requires reduction, perusal of the records reveal that the Tribunal, on proper appreciation of evidence of pay slip and bank statements (Exs.P.7 and P.8), has awarded a just and reasonable compensation. We find no reason to interfere with the conclusion reached by the Tribunal. Hence, this appeal is liable to be dismissed.



*9. In such view of the matter, this Civil Miscellaneous Appeal is dismissed as devoid of merits. The appellant / Insurance Company is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the major claimants are permitted to withdraw the award amount as apportioned by the Tribunal, less the amount already withdrawn, if any, together with proportionate interest and costs. Insofar as the minor claimants are concerned, their shares 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 they attain majority and the interest accrued thereon shall be withdrawn by the first claimant / mother once in three months directly from the Bank. The apportionment of shares as fixed by the Tribunal to the claimants remains unaltered. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar
Dated : 07.10.2021

*Corrected as per Order of this
Court dated 15.12.2021 in
CMA No.2147 of 2021

Sd/-
Assistant Registrar
Dated : 12.01.2022

//True Copy//

Sub Assistant Registrar

skn

To

1.The Motor Accident Claims Tribunal,
Special Subordinate Court No.1,
Small Causes Court, Chennai.

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

+1cc to Mr.R.Thirugnanam, Advocate, S.R.No.66960

To be
Substituted
to the Order
already
despatched on
29.10.2021

C.M.A.No.2147 of 2021 and
C.M.P.No.11871 of 2021

GPL(CO)
SU(11/10/2021)
RVM(20/01/2022)