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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

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

C.M.A. No.3196 of 2021
and CMP.No.18227 of 2021

M/s.Reliance General Insurance Company Limited,
No.89, 100 Feet Road, Vivyan Plaza,
Ground Floor, Muthaliyar Pettai,
Pondicherry 605 004.

...Appellant
/2nd Respondent

Vs.

- 1.Kalarani
2. Sathiya
3. Rajadurai
4. Kalaivani
5. Rajesh (minor)
6. Sanjai (minor) ...Respondents 1 to 6/Petitioners 1 to 6
[Respondents 5 and 6 are minors rep. by their
mother and next friend first respondent]
7. Jayaganapathy
Ravichandran (died)
8. Iffco Tokio General Insurance Company Limited,
No.128, IFFCO Bhavan,
4th Floor, Habibullah Road,
T.Nagar, Chennai.
9. Elaiya
- 10.Divya
- 11.Sneka (minor)
- 12.Keerthika (minor)
- 13.Ramachandiran (minor)
- 14.Ramarajan (minor)
(Respondents 11 to 14 are minors rep by
mother and next friend 9th Respondent)
- 15.Sundarambal
- 16.Thangarasu

...Respondents 7 to 16/
Respondents 1, 4 to 12



Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree made in MCOP.No.147 of 2015, dated 03.01.2020, on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Virudhachalam.

For Appellant : Mr.B.Raghavan

J U D G M E N T

[Judgment of the Court was delivered K.KALYANASUNDARAM, J]

The appeal is heard through video conferencing.

2. This appeal is directed against the judgment and decree, dated 03.01.2020 passed by the Motor Accidents Claims Tribunal, Principal Subordinate Court, Virudhachalam in MCOP.No.147 of 2015.

3. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

4. The legal heirs of the deceased Rajendran, who are the respondents 1 to 6 herein, filed the claim petition seeking compensation of Rs.25,00,000/-. It is their case that, on 04.03.2015, the deceased was travelling as a pillion rider in a Motorcycle bearing Registration No.TN-31-BA-7117 towards East from Virudhachalam Town. While so, a Motorcycle bearing Registration No.TN-31-BT-3541, which belongs to the first respondent, was driven by him in a rash and negligent manner and hit against the said motorcycle. Due to the impact, the deceased sustained grievous injuries and he was admitted in the Government Hospital, Virudhachalam. Thereafter, he was referred to JIPMER Hospital, Pondicherry. Eventually, he died on 29.03.2015.

5. The claimants submitted that the deceased was working as a Mason and earning Rs.18,000/- per month. Since the accident had occurred due to the negligence of the first respondent, they are entitled for compensation.

6. Resisting the claim petition, the appellant/Insurance Company filed their counter statement disputing the manner of accident as projected by the claimants, age, occupation and income of the deceased and its liability to pay the compensation.



7. During trial, the parties have adduced oral and documentary evidence. Upon considering all the evidence, the Tribunal came to the conclusion that the accident had occurred due to the negligence of the first respondent and awarded a compensation of Rs.20,71,000/- along with interest at 7.5%. Assailing the findings of the Tribunal, the present appeal has been filed by the Insurance Company.

8. Mr.B.Raghavan, learned Counsel appearing for the appellant/Insurance Company would contend that the Tribunal grossly erred in awarding higher compensation, which is not in consonance with the facts of the case. It is his case that in the claim petition, it has been stated that the deceased was 49 years old at the time of the accident, but the Tribunal based on the Postmortem certificate, which was marked as Ex.P11, had concluded that the deceased died at the age of 40 years and applied multiplier 15 while calculating Loss of Dependency. Hence, the multiplier adopted by the Tribunal has to be reduced.

9. We have considered the submissions of the learned counsel appearing for the appellant/Insurance Company and perused the materials available on record.

10. From the perusal of records, it is seen that the deceased died leaving behind his wife and 5 children, who are aged between 6 and 22 years. Though in the claim petition, it is stated that the deceased was working as a Mason and earning Rs.18,000/- per month, but the Tribunal had taken the monthly income of the deceased at Rs.9,000/- to determine the Loss of Dependency. Considering the age of the claimants and the income fixed by the Tribunal, we are of the opinion that the amount awarded by the Tribunal towards Loss of Dependency, is just and reasonable, which does not warrant interference by this Court. Hence, the appeal is liable to be dismissed.

11. 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 claimants 1 to 4 are permitted to withdraw their respective shares as apportioned by the Tribunal, less the amount already withdrawn, if any, together with proportionate interest and costs. Insofar as the minor claimants 5 & 6 are concerned, their respective 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. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

pvs

To

- 1.The Principal Subordinate Judge, Virudhachalam
Motor Accidents Claims Tribunal, Virudhachalam
2. The Section Officer,
V.R.Section, High Court, Madras.

C.M.A. No.3196 of 2021

PVS (CO)
CB(10/12/2021)