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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.3121 of 2021

and

C.M.P.No.17629 of 2021

The Branch Manager,
Reliance General Ins. Co. Ltd.,
Raj Towers, Plot No.2054, II Floor, II Avenue,
Anna Nagar, Near G.R.T.,
Chennai - 600 040.

...Appellant/2nd Respondent

Vs.

1.Selvi
2.Minor Akash
3.Minor Aarthi
4.Minor Saran
5.Rani
6.G.Balu

..Respondents 1 to 5/Claimants

...6th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to set aside the Decree and Judgment dated 09.11.2020 made in MCOP No.1612 of 2014 on the file of the Motor Accident Claims Tribunal, Special Sub-Court No.1, Court of Small Causes at Chennai.

For Appellant : Ms.C.Bhuvanasundari

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 Sub-Court No.1, Small Causes Court, Chennai, in MCOP No.1612 of 2014 dated 09.11.2020.

2.This is the case of fatal accident. The case of the claimants is that on 22.04.2014 at 11.00 hours, the first claimant's husband, the deceased Saravanan was driving an Auto bearing Reg.No.TN-09-BQ-3764 from K.K.Nagar to Ashok Nagar XI Avenue at Ashok Pillar Anna Main Road, Opposite to Pillar



Amudham Complex, Chennai. At that time, a Tata Magic bearing Reg.No.TN-05-AJ-0907 driven by its driver in a rash and negligent manner came at a dangerous speed and dashed against the Auto. In the impact, the deceased sustained fatal injuries and died on the same day at 21.45 hours. The first claimant is the wife of the deceased and the claimants 2 to 4 are the children and the 5th claimant is the mother. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the Auto, the claimants laid a petition, claiming compensation of Rs.50,00,000/-.

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 and exorbitant.

4.To substantiate the case, on the side of the claimants, P.Ws.1 to 3 were examined and Exs.P1 to Ex.P.18 were marked. On the side of the appellant/Insurance Company no witness was examined and no document was marked.

5.The Tribunal, after considering the oral and documentary evidence, held that the driver of the Tata Magic was responsible for the accident and awarded compensation of Rs.21,40,000/- to the claimants. The fifth respondent herein is the owner and the appellant is the insurer of the offending vehicle. Hence, the Tribunal directed the appellant to pay the compensation. Assailing the award, the appellant Insurance Company has filed the present appeal.

6.Heard Ms.C.Bhuavansundari, learned counsel for the appellant/Insurance Company 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 and it requires reduction, on perusal of the records, we find that the Tribunal, considering the age of the deceased, has determined the notional monthly income as Rs.10,000/- and adopting correct multiplier awarded a just and reasonable compensation. Further, the customary 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 Sarala Verma and others vs. Delhi Transport Corporation and another reported in 2009 TNMAC 1. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit. 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. Further, the Tribunal is directed to deposit the share of the minor claimants in any one of the nationalised banks, as fixed deposit under the Cumulative Deposit Scheme, till the minors attain the age of majors. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Special Sub-Court No.1,
Court of Small Causes at Chennai.

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

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PP(CO)
SP(10/12/2021)