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C.M.A.No.719 of 2006

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 15.09.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.719 of 2006

and

C.M.P.No.2937 of 2006

1.C.Swaminathan

2.M/s.National Insurance Company Limited,
Divisional Office I,
287, Sathy Road,
Coimbatore – 12.

...Respondents 1 and 2/Appellants

Vs.

1.K.Subramanian

2.K.Pachamuthu

3.K.Poongodi

4.K.Vijayalakshmi

...Petitioners/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 29.06.2000 in M.C.O.P.No.482 of 1995 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sankari.



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For Appellants : Ms.R.Sree Vidhya

For Respondents : R2 to R4 – Served
No appearance

Not ready in notice regarding R1

JUDGMENT

The Insurance Company is the appellant before this Court challenging the Judgment and Decree passed by the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sankari, in M.C.O.P.No.482 of 1995.

2.The challenge is only to the quantum of compensation. The claimants had filed the above claim petition seeking compensation for the death of one Saravanan. It is the case of the claimants who are the legal representatives of the driver of the bus that on 28.08.1994 when the bus had stopped as there was no fuel in the vehicle, a lorry coming in the opposite direction belonging to the 1st respondent and



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insured with the 2nd respondent collided with the stationary bus, as a result of which, the bus moved backward. The deceased was sitting behind the bus waiting for the cleaner of the bus to buy the fuel. As a result of the above collision, he has sustained grievous injuries and died on the spot. The bus had been parked with all the requisite signals despite which, the 1st respondent's lorry which was driven by the driver in a rash and negligent manner dashed against the bus thereby causing fatal injuries to the deceased.

3.The Insurance Company had denied the liability and had questioned the income, age and avocation of the deceased. The Tribunal had held that the driver of the 1st respondent's lorry was responsible for the accident. Ultimately, The Tribunal awarded a sum of Rs.2,85,000/- as compensation.

4.A perusal of the Award would show that the deceased was aged about 25 years and the multiplier that should be adopted is 15



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and not 17. However, the said Award has not been challenged by the claimants. From, a perusal of the records, it is clearly evident that the amount of compensation that has been granted is reasonable and no exception can be taken to the same.

Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

15.09.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankari.



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P.T. ASHA, J,

mps

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