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C.M.A.No.2226 of 2009
and M.P.No.1 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

CORAM
THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

C.M.A.No.2226 of 2009
and
M.P.No.1 of 2009

1.M/s.NLC Limited, Neyveli

2.The New India Assurance Co. Ltd.,
Cuddalore.

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... Appellants

Vs.

1.V.Lalli, S/o.Late Viswanathan

2.Rajamohan, S/o.Viswanathan

3.V.Rajalakshmi,W/o.Uma Maheswaran

4.V.Rajashri, W/o.Velmurugan

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment made in M.A.C.T.O.P.No.158 of 2007 on the file of the Motor Accidents Claims Tribunal (Fast Track Court No.II, Additional District Judge) at Cuddalore, dated 30.04.2009.



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For Appellants : Mr.M.Krishnamoorthy

For Respondents : Not ready in notice

JUDGMENT

The above appeal has been filed mainly on the ground that the deceased had contributed to the accident by his negligent act of dashing against the bus and the deceased motorcyclist was under the influence of alcohol and therefore, the tribunal ought to have passed an award only under no fault liability.

2. The C.M.A., is of the year 2009 and till date, no notice has been served on the respondents. After getting the interim order of stay from this court, the appellant has not served notice on the respondents and therefore, this court deemed it fit to take up the appeal for final disposal.

3.The learned Judge, based on the evidence, has correctly found that the negligence is on the part of the driver of the 1st appellant. The appellants



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counsel has not put forth any contention to assail the said finding through any evidence. No contra evidence has been let in even before the Tribunal to prove negligence on the part of the deceased. Accordingly, the findings of the learned Judge does not warrant any interference from this court. As far as compensation amount granted to the wife and son of the deceased is concerned, Rs.9,51,352/- has been awarded. The said award cannot be said to excessive. The only interference necessitated in this appeal is that the tribunal awarded interest at 10% per annum, which is on the higher side, therefore, the same is reduced to 7.5% per annum.

4. In the light of the above reasonings, this Court is not inclined to interfere with the award passed in M.A.C.T.O.P.No.158 of 2007 dated 30.04.2009. This Civil Miscellaneous Appeal stands dismissed accordingly. Since this Court has already directed to deposit 50% of the award amount, the appellants are directed to deposit the balance award amount with interest at 7.5% p.a. and cost within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to



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withdraw their respective shares as apportioned by the Tribunal by filing appropriate application before the Tribunal. Consequently, the connected miscellaneous petition is also dismissed. No cost.

09.03.2022

Index : Yes/No
Internet : Yes/No

kas/nvsri

To

1.The Motor Accidents Claims Tribunal
(Fast Track Court No.II, Additional District Judge),
Cuddalore

2.The Section Officer,
VR Section, Madras High Court.



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J.NISHA BANU, J.

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