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CMA.3252 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A.No.3252 of 2011
and M.P.No.1 of 2011

The Divisional Manager

The New India Assurance Co.Ltd

Having their office at

Door No.42, Big Street,

Tiruvannamalai

..Appellant/2nd respondent

Vs

1.Bhavani

2.Minor Vinoth

3.Minor Arun

4.Poongavanam

5.Pattammal

..Respondents 1 to 5
/Petitioners

Minors 2nd and 3rd respondents
are rep. By their next friend/mother

1st petitioner Bhavani

6.K.Neppolian

..Respondent No.6
/Respondent No.1

PRAYER: CMA filed against the award and decree dated 27.06.2011

passed in MCOP.No.1070 of 2009 on the file of Motor Accidents



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Claims Tribunal (District Judge), Thiruvannamalai.

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For appellant : Mr.S.Jayasankar

For respondents : Mr.P.Mani for R1 to R3.

JUDGMENT

The insurance company has filed this appeal challenging the quantum of compensation awarded to the claimants/respondents 1 to 5.

2. Since the appellant/insurance company has not questioned the award on other aspects but only raised the grounds seeking to reduce the compensation awarded to the claimants, it is not necessary for this court to go into the manner of accident and the evidence discussed before the Tribunal.

3. For the death caused to Ramar in the accident, the claimants who are wife, sons and parents of the deceased filed MCOP claiming Rs.10,00,000/-. The Tribunal, after going through Ex.P.2-Post mortem certificate, taken the age of deceased as 28. On the basis of evidence, the tribunal fixed the notional income of the deceased who was working



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as building maistry as Rs.4,500/- per month and after deduction, taken Rs.3,000/- p.m. as contribution to his family. In respect of pecuniary and non pecuniary heads, the tribunal granted compensation as under:-

<i>S l. N o.</i>	<i>Heads</i>	<i>Compensation awarded by the tribunal</i>
1.	Loss of earnings [3,000 x 12 x 18]	6,48,000
2.	Loss of consortium [1 st claimant/wife]	20,000
3.	Loss of love and affection [Rs.10,000 x 4]	40,000
4.	Funeral expenses	2,000
5.	Transport charges	500
6.	Damage to clothes and articles	500
	Total	7,11,000/-

4. The compensation awarded by the Tribunal cannot be held to be either excessive or arbitrary. But it is a just compensation following settled proposition of law. In such view of the matter, this Court finds no infirmity in the Award of the Tribunal, warranting any interference and accordingly, the Award passed by the Tribunal is confirmed.

5. By order dated 14.11.2011, this Court while ordering interim



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stay of operation of the award, directed the appellant-Insurance company to deposit entire Award amount with accrued interest. Since this Court confirmed the Award passed by the Tribunal, the respondents 1, 4 and 5 /wife and parents of the deceased are permitted to withdraw the amount lying in the deposit along with interest and costs without filing formal petition before the Tribunal. As far as minor claimants are concerned, their share shall be deposited in fixed deposit in any one of the Nationalised Bank, till they attain majority.

6. In the result, the Civil Miscellaneous Appeal is dismissed.

Interim stay stands vacated. No costs.

17.03.2022

nvsri

To

1.The District Judge,

Motor Accidents Claims Tribunal Thiruvannamalai.

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



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J.NISHA BANU,J.

nvsri

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