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C.M.A.No.378 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

C O R A M

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

C.M.A.No.378 of 2016
and CMP.No.2887 of 2016

The Branch Manager
The Oriental Insurance Co. Ltd
Branch Office, No.12 Katpadi Road
Gudiyatham 632 602.

... Appellant
/3rd respondent.

Vs

1. Kanakamma
2. Minor Satheesh Kumar
3. Minor Santhosh Kumar
rep. By their next friend and mother Kanakamma
4. Annamalai
5. Pappamma

... Respondents 1 to 5
/Petitioners.

6. L. Ekambaram
7. S. Sivakumar

...Respondents 6 and 7
/Respondents 1 and 2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the judgment and decree passed by the



C.M.A.No.378 of 2016

Motor Accidents Claims Tribunal (Tribunal Additional District Judge),

Krishnagiri, dated 25/8/2015, in M.C.O.P.No.800 of 2013.

For appellant ... Mr.M.Krishnamoorthy
For respondents ... Mr.Mukund R.Pandiyan
for R.R.1 to 3.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-Insurance Company challenging the compensation awarded by the Tribunal to the respondents 1 to 5/claimants before the Tribunal.

2. Since the appellant has challenged only the quantum of compensation, manner of accident and liability are not discussed in this appeal.

3. Before the Tribunal, legal heirs of the deceased Sengaiah are the claimants. The Tribunal taking note of the avocation of the deceased who was doing flower business, fixed notional income of Rs.9,000/- per month;



adopted 16 multiplier as the deceased was aged 35 years, deducted $1/6^{\text{th}}$ for the family of 6 dependants and calculated the loss of dependency as Rs.14,40,000/-. The Tribunal also added Rs.1,25,000/- towards loss of love and affection, Rs.50,000/- towards loss of consortium and Rs.20,000/- towards Funeral expenses and altogether awarded Rs.16,35,000/- as compensation along with 7.5% interest per annum. The share of the minor claimants were directed to be invested in the Nationalised Bank and permitted to withdraw interest once in 6 months.

4. The compensation awarded by the Tribunal cannot be held to be either excessive or arbitrary. But it is a just compensation and 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 04.02.2016, this Court while ordering interim stay of operation of the award, directed the appellant-Insurance company to



C.M.A.No.378 of 2016

deposit entire award amount with accrued interest and also directed the major claimants to withdraw 50% of their respective shares with proportionate interest.

6. In the result, the Civil Miscellaneous Appeal is dismissed. The award passed by the Tribunal is confirmed. The respondents 1, 4 and 5/claimants are permitted to withdraw the balance amount of their respective shares along with interest and costs without filing formal petition before the Tribunal. As far as respondents 2 and 3 are concerned, on attaining majority, they are entitled to withdraw their proportionate share along with accrued interest. No costs. Consequently, connected miscellaneous petition is closed.

22.04.2022

Index : Yes/No
Internet : Yes/No

mvs/nvsri



C.M.A.No.378 of 2016

WEB COPY

To

1. The Motor Accidents Claims Tribunal (Tribunal Additional District Judge), Krishnagiri.
- 2.The Section Officer, V.R.Section, High Court, Madras.



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C.M.A.No.378 of 2016

J.NISHA BANU, J

nvsri

C.M.A.No.378 of 2016

22/4/2022