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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.3648 of 2021

and

C.M.P.No.21432 of 2021

The Manager

M/s Reliance General Insurance Co. Ltd.,

Having Office at Rai's Tower

Plot No.2054, 2nd Avenue

2nd Floor, Next Senthil Nursing Home

Anna Nagar,

Chennai - 600 040.

... Appellant/2nd Respondent

Vs.

1.Vetti Kanchana

2.Minor. Vetti Sangeetha

3.Minor. Vetti Sangavi

4.Minor. Vetti Charan Raj

(Minors represented by their mother Next friend, Vetti Kanchana)

5.Vetti Nandan

6.Vetti Arllusle

7.N.Rajan

... Respondents/Petitioners 1 to 6
and Ist Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 16.12.2020 made in M.C.O.P.No.269 of 2015 on the file of the Motor Accidents Claims Tribunal, Special District Judge, Thiruvallur.

For Appellant : Mr.S.Arunkumar

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 District Judge, Thiruvallur, in MCOP No.269 of 2015.



2. The case of the claimants is that on 08.12.2014 at 06.30 pm., when the deceased was riding his motor cycle bearing Registration No.TN-37-D-6333, near Lucky Weigh Bridge on National Highway Road, Tada Mandal, on extreme left side of the road, at that time, the 1st respondent's vehicle viz., Tractor bearing Registration No.TN-20-AR-0828, driven by its driver in a rash and negligent manner, hit against the deceased and thus caused the accident. As a result, the deceased sustained grievous injuries and immediately admitted in Rajiv Gandhi Government Hospital, Chennai for treatment. During the period of treatment, he died on 11.12.2014. The claimants are legal heirs of the deceased. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the Tractor, the claimants laid a petition, claiming compensation of Rs.15,00,000/-.

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 amount is excessive.

4. To substantiate the case, on the side of the claimants, P.Ws.1 and 2 were examined and Exs.P1 to 9 were marked. On the side of the appellant/Insurance Company, neither the witnesses, nor the documents were marked.

5. The Tribunal, after considering the oral and documentary evidence held that the driver of the Tractor belonging to the 1st respondent herein was responsible for the accident and awarded compensation of Rs.24,54,356/- to the claimants. Assailing the award, the appellant Insurance Company has filed the present appeal.

6. Heard Mr.S.Arunkumar, learned counsel appearing 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. It is urged by the learned counsel appearing for the appellant/Insurance company has contended that the award is on the higher side by wrongly fixing excessive monthly income of deceased as Rs.11,085/-.. Further, the Tribunal erred in fixing the monthly income of the deceased, based on the cost



inflammation without taking into consideration that he would not have received employment on all the 365 days.

9. We have considered the matter in the light of the submission made by the learned counsel appearing for the appellant and on perusal of the records reveal that the Tribunal, fixed the income of the deceased at Rs.6,500/- by following the decision of the Hon'ble Apex Court in the case of Syed Sadiq Vs. United India Insurance Company, reported in 2014 (1) TN MAC 459 and taking note of the cost inflation index for the year 2007-2008, fixed the notional income of the deceased at the time of accident at Rs.11,085/- to award compensation to the victims. In our view the award is a just and reasonable. We find no reason to interfere with the conclusion reached by the Tribunal. Hence, this appeal is liable to be dismissed.

10. 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 is being made, 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 nationalized banks, as fixed deposit under the Cumulative Deposit Scheme, till the minors attain the age of major and hand over the fixed deposit certificate to the mother of the minor claimants. Till such time, the 1st respondent/wife of the deceased being the guardian, shall withdraw the interest every 6 months once. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

1. The Special District Judge,
Motor Accidents Claims Tribunal,
Thiruvallur.



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

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+1cc to Mr.S.Arunkumar, Advocate Sr.454

C.M.A.No.3648 of 2021
and
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