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C.M.A.No.1877 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MRS. JUSTICE N. MALA

C.M.A.No.1877 of 2018

and

C.M.P.No.14483 of 2018

The Reliance General Insurance Co. Ltd.,
No.6, Haddows Road,
Nungambakkam, Chennai - 600 034.

... Appellant

Vs.

1.C.Alamelu
2.V.Chellappan
3.M.Kumaran

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 10.11.2017, in M.C.O.P.No.16 of 2017 on the file of the Motor Accident Claims Tribunal, Special District Court, Tiruvallur.



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For Appellant : Mr.P.Vijayalakshmi
for M/s.S.Arun Kumar

For R1 : No appearance

R2 : Service awaited

R3 : Notice dispensed with
vide order dated 19.09.2022

J U D G M E N T

(Judgment was delivered by **S.S. SUNDAR, J.**)

As against the award of compensation by the Motor Accident Claims Tribunal-I, Special District Court, Tiruvallur (“the Tribunal” for brevity), dated 10.11.2017, in M.C.O.P.No.16 of 2017, the above appeal is preferred by the Insurance Company.

2.The respondents 1 and 2 are the claimants in M.C.O.P.No.16 of 2017, who are the parents of the deceased, who met with a fatal accident on 09.11.2016 and died as a result of the accident. On the fateful day, the deceased was driving his two-wheeler. It is stated that, due to the rash and



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negligent driving of the vehicle belonging to the 3rd respondent, the accident took place, as a result of which, the son of the claimants (respondents 1 and 2 in this appeal), suffered grievous injuries on his head and ultimately, he succumbed to the injuries, while he was taking treatment in the Hospital for the injuries sustained by him.

3.The claimants examined the 2nd respondent/mother of the deceased as P.W.1. The fact that the deceased was aged about 21 years at the time of the accident was proved by documentary evidence, apart from the oral evidence of P.W.1. Though it was contended by the Insurance Company that the deceased was not holding a valid driving licence at the time of the accident, no oral or documentary evidence was produced by the Insurance Company before the Tribunal to substantiate the same. The postmortem certificate (Ex.P4) and the driving licence of the deceased (Ex.P10) were relied upon by the Tribunal. The Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the vehicle that belongs to the 3rd respondent. Therefore, the Tribunal held that the appellant/Insurance Company is liable to pay the entire compensation.



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4.As regards the quantum of compensation, the deceased was working in the Marketing Section of a Security Company, namely, Axis Security Limited. It was claimed by the claimants that the deceased was earning a sum of Rs.16,000/- per month. P.W.3, Senior Head of the employer of the deceased, deposed to the effect that the deceased was a permanent employee of M/s.Axis Security Limited and he was drawing a salary of Rs.24,594/- per month, however, in the cross-examination, he has stated that the basic salary of the deceased was Rs.10,000/- and the remaining amount was given as additional allowance for his efficiency. Therefore, the Tribunal safely fixed the monthly salary of the deceased at Rs.15,000/- and having regard to the increments which the deceased would have got if he was alive, 50% of the actual salary was added towards future prospects and the monthly income of the deceased was fixed by the Tribunal at Rs.22,500/-. Since the deceased died at the age of 21 years as a bachelor, 50% of the monthly salary was deducted towards the deceased's personal expenses and his take home salary for the purpose of calculating the loss of income was arrived at Rs.11,250/-. After adopting 18 as multiplier, a sum of Rs.24,30,000/- was



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fixed towards loss of income. Further, a sum of Rs.25,000/- was allowed towards funeral expenses and a sum of Rs.50,000/- alone was granted towards loss of love and affection. The Tribunal awarded a compensation of Rs.25,05,000/-, in all. The Tribunal has only awarded interest @ 7.5% p.a. from the date of the petition, i.e., 02.02.2017 till the date of deposit. The claimants have no grievance on the apportionment.

5.This Court is unable to find any irregularity or legal infirmity in the award of the Tribunal, fixing the compensation at Rs.25,05,000/- with interest @ 7.5% p.a. This Court finds no merit in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (N.M., J.)
10.10.2022

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Internet : Yes

Index : Yes / No

To

The Special District Judge,

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(Motor Accident Claims Tribunal),
Tiruvallur.

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