



C.M.A.No.2482 of 2014

WEB COPY IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 30.09.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2482 of 2014

and

M.P.No.1 of 2004

The Oriental Insurance Company Limited,
No.173, J.N.Road,
Near Oil Mill,
Thiruvallore.

...2nd Respondent/ Appellant

Vs.

1.Gowri
2.Mohan
3.Lakshmi Priya
4.Sankar

...Petitioners/Respondents

5.M/s.Hindustan Institute of
Engineering Technology,
Hindustan Engineering Training Centre,
No.40, GST Road,
St. Thomas Mount,
Chennai – 600 016.

...1st Respondent/Respondent



C.M.A.No.2482 of 2014

WEB COPY

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 16.06.2011 in M.C.O.P.No.23 of 2007 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Madurantagam.

For Appellant : Ms.R.Sreevidhya

For Respondents : Mr.J.Karthikeyan for R1 to R4

R5 – *ex parte*

JUDGMENT

The appellant/Insurance Company is the 2nd respondent before the Tribunal in M.C.O.P.No.23 of 2007 challenging the Award passed by the learned Subordinate Judge, Motor Accidents Claims Tribunal, Madurantagam, granting a sum of Rs.7,15,000/- as compensation for the death of one Velayutham, the husband of the 1st respondent and the father of the respondents 2 to 5 herein. The mother of the deceased who was arrayed as the 5th petitioner before the Tribunal is no more. It is the case of the respondents 1 to 4 that when the



C.M.A.No.2482 of 2014

deceased Velayutham was waiting for a bus at Melavalam Pettai NH bus stand, a Car bearing Registration No.TN 22AT 1122 belonging to the 1st respondent and insured with the 2nd respondent driven by a driver in a rash and negligent manner, hit against the deceased. The accident took place on 25.09.2006. By reason of the same, the deceased was thrown out and died on the spot.

2.The Insurance Company had filed a counter generally denying the allegations contained in the petition and denying the age, occupation and nature of the injuries of the deceased.

3.The Tribunal has held that the accident had occurred only on account of the rash and negligent driving by the driver of the 1st respondent's car and awarded a sum of Rs.7,15,000/- as compensation. The Tribunal had adopted a notional income of Rs.7,500/- and 1/3 was deducted towards personal expenses adopting a multiplier of 11, the loss of income was worked out to a sum of Rs.6,60,000/- (Rs.7,500/-



C.M.A.No.2482 of 2014

$\times \frac{1}{3} \times 12 \times 11 = \text{Rs.}6,60,000/-$). The respondents 1 to 5 had contended that the deceased Velayutham was a works contractor and a TNEB licensed electrician, earning a monthly income of Rs.15,000/- per month. They have filed Ex.A.8 to Ex.A.12 to prove the occupation of the deceased Velayutham. The Insurance Company is aggrieved primarily on the notional income adopted by the Tribunal.

4. Heard the learned counsels appearing on either side and perused the papers.

5. A perusal of the Award would indicate that the respondents 1 to 5 claimants have been able to establish the fact that the deceased was a Works contractor by filing Ex.A.8 to Ex.A.12. Taking into account the above proof, the fixation of the notional income of Rs.7,500/- is very much in order. The amount granted under the other heads are fair and reasonable. I see no reason to interfere with the order passed by the Tribunal.



C.M.A.No.2482 of 2014

WEB COPY

Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

30.09.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Madurantagam.



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C.M.A.No.2482 of 2014

P.T. ASHA, J,

mps

C.M.A.No.2482 of 2014
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