



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.NO.3718 OF 2021

AND

C.M.P.NO.21829 OF 2021

Reliance General Insurance Company Limited,
Reliance House,
No.6, Haddows Road,
Nungambakkam,
Chennai - 600 006.

... Appellant

Vs.

1.Dhanalakshmi

2.Natarajan

3.Selvakumar

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree made in MCOP No.901 of 2018 dated 30.06.2021 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Ms.Harini for
M/s M.B.Gopalan Associates

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, II Court of Small Causes, Chennai in MCOP No.901 of 2018 dated 30.06.2021.



2.This is the case of fatal accident. The case of the claimants are that on 30.12.2017 at 00.45 hours, the deceased Subbaiah was travelling as pillion rider in a motorcycle bearing Reg.No.TN-19-S-6764 on 100 Feet Road, Nungambakkam. When the said vehicle was nearing Oswal Sanitary and Granite Shop, the rider of the motorcycle rode the vehicle in a rash and negligent manner and dashed against the M.M.D.A bus stop pillar and caused fatal injuries to the deceased. The third respondent herein is owner and the appellant is the insurer of the offending vehicle. Alleging that the accident had taken place due to the rash and negligent riding of the rider of the motorcycle, the parents of the deceased laid a petition, claiming compensation of Rs.30,00,000/-.

3.Resisting the claim, the appellant Insurance Company filed their counter disputing the manner of accident, age, occupation and income of the deceased and its liability to pay the compensation. It was also contended that the amount of compensation claimed under various heads is highly excessive.

4.To substantiate the case, on the side of the claimants, P.Ws.1 to 3 were examined and Exs.P1 to Ex.P.17 were marked. On the side of the appellant/Insurance Company, no document was marked and no witness was examined.

5.The Tribunal, after considering the oral and documentary evidence, fixed 90% negligence on the part of the rider of the motorcycle and 10% negligence on the part of the deceased. Further, the Tribunal, after deducting 10% of the award amount for the negligence of the deceased, awarded Rs.21,92,000/- to the claimants. Assailing the award, the appellant Insurance Company has filed the present appeal.

6.Heard Ms.Harini, 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.Though the learned counsel for the appellant/Insurance Company has contended that the award is on the higher side and it requires reduction, on perusal of the records, we find that the Tribunal, on proper appreciation of evidence of Salary Slip (Ex.P.15), has fixed the monthly income and adopting correct multiplier by following the case of Sarala Verma and others vs. Delhi Transport Corporation and another reported in 2009 TN MAC 1 has awarded a just and reasonable compensation under the head of loss of dependency. Further, the quantum of compensation



under remaining heads were fixed by the Tribunal by following the Judgment of the Hon'ble Supreme Court in the case of National Insurance Company Ltd., vs. Pranay Sethi and others reported in 2017(2) TNMAC 609 (SC). The deduction of 10% for negligence of the deceased and the rate of interest fixed by the Tribunal are confirmed. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit. Hence, this appeal is liable to be dismissed.

9. 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, the first claimant is permitted to withdraw the award amount, as awarded by the Tribunal, less the amount already withdrawn, if any, together with interest and costs. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

skn

To

The Motor Accident Claims Tribunal,
II Court of Small Causes, Chennai.

C.M.A.No.3718 of 2021
and
C.M.P.No.21829 of 2021

JPL(CO)
RLP(21/04/2022)