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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM:

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

C.M.A.No.2146 of 2017

- 1.Hariharanaganathan (died)
- 2.Lalitha
- 3.Natarajuprabu
- 4.Vaishiyali

(Appellants 2 to 4 brought on record
as LR's of the deceased first appellant
vide order dated 28.02.2022 made in
CMP No.827 of 2021)

...Appellants/Petitioners

Vs.

1. M/s Dharani Finance Ltd.,
Dharani Nagar,Vasudevanallur,
Sivagiri Taluk,
Tirunelveli District.
2. New India Assurance Company Limited,
Rajapalayam.
3. A.Sakthivel
4. The New India Assurance Company Ltd.,
No.92, East Coast Chamber,
1st Floor, G.N.Chetty Road,
T.Nagar,
Chennai - 600 017.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to enhance the award of compensation from Rs.29,23,360/- to Rs.3,00,00,000/- in MCOP No.165 of 2011 dated 06.08.2015 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Cuddalore at Vridhachalam.



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For Appellants : Mr.D.Veerasekaran

For Respondents : Mr.K.Vinod for R2 & R4
No appearance for R1 & R3

JUDGMENT

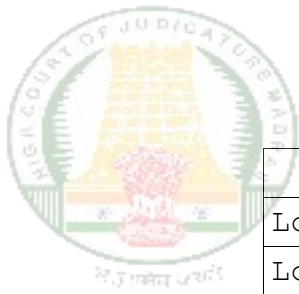
[Judgment of the Court was delivered by K.KALYANASUNDARAM,
J.]

The appellants challenge the award passed by the Motor Accident Claims Tribunal, III Additional District Court, Cuddalore at Vridhachalam in MCOP No.165 of 2011, dated 06.08.2015.

2.Facts in nutshell:-

The claimants have come up with this appeal seeking enhancement of compensation. This is the case of injury. On 04.01.2007, the claimant Hariharanaganathan travelled in an Omni Van bearing Reg.No.TN-51-N-9599 belonging to the third respondent and insured with the fourth respondent. When the said vehicle was nearing Vasudevanallur, Dharani Sugars at 10.30 p.m, to give a way to a vehicle which came from the opposite direction, slowed their vehicle, at that time, the driver of the lorry bearing Reg.No.TN-45-D-1990 belonging to the first respondent and insured with the second respondent, suddenly stopped his vehicle without observing road rules and hence, the third respondent's vehicle hit the lorry. In the impact, the claimant Hariharanaganathan sustained multiple injuries. Immediately, he was taken to the Government Hospital, after providing first aid, he was referred to Madurai Meenaktchi Medical Mission Hospital, where he underwent number of surgeries. Thereafter, he took treatment at Appollo Mid Hospital, Chennai and Prasanth Hospital, Chennai. Alleging that the accident had occurred due to the negligence of the driver of the both the vehicles, the injured claimant filed the claim petition seeking Rs.3,00,00,000/- as compensation.

3.The Tribunal, after considering the oral and documentary evidence adduced by the parties, held that the driver of the third respondent's vehicle/Omni Van was responsible for the accident and awarded compensation of Rs.29,23,360/- together with interest at 7.5% per annum, under the following heads:-



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Heads	Rs.
Loss of income for 6 months (11000x6)	66,000/-
Loss of Future earning (14850x12x14x70%)	17,46,360/-
For Transportation	50,000/-
Extra Nourishment	25,000/-
Attender Charges	25,000/-
Medical Expenses	6,11,000/-
Pain and Suffering	1,50,000/-
Loss of amenities	1,50,000/-
Disability	1,00,000/-
Total	29,23,360/-

4. Being dissatisfied with the quantum, the claimant filed the present appeal seeking enhancement of compensation. During the pendency of the appeal, the injured claimant died, hence, his legal heirs were brought on record.

5. The learned counsel appearing for the appellants Mr. D. Veerasekaran submitted that the Tribunal having found that the appellant was taking physiotherapy treatment at Malar Physiotherapy Centre and incurred expenditure of Rs. 23,64,000/- and also treatment for injuries that posterior dislocation of left hip, fracture distal end of radius right, grossly erred in restricting the amount of compensation to Rs. 29,23,360/-. He further added that since the amount awarded by the Tribunal is meager in all the heads, the claimants are entitled for higher compensation.

6. Per contra, the learned counsel appearing for the respondents 2 and 4 Insurance Company Mr. K. Vinod submitted that the impugned Award and Decree awarding the aforesaid compensation is well reasoned and the appellants have not made out any ground to enhance the compensation, therefore, this Civil Miscellaneous Appeal is liable to be dismissed.

7. This Court carefully considered the submissions of the learned counsel appearing for the appellants and the learned counsel appearing for the respondent Insurance Company and perused the materials available on record.

8. There is no dispute that the claimant suffered injuries in an road accident that had taken place on 04.01.2007. The finding of the Tribunal that the accident had occurred due to the negligence of the driver of the third respondent Omni Van



has become final and hence, it need not be adverted to in the appeal.

9. Insofar as quantum is concerned, on perusal of the records, we find that the Tribunal, on proper appreciation of evidence of R.W.1 and Ex.X.15-Income Tax Returns fixed the monthly income of the injured claimant and after considering the evidence of P.W.2-Dr.R.Rathinasabapathy, P.W.3-S.Ramasamy, Medical Records Assistant, P.W.4-B.Karthikeyan, Physiotherapist, has fixed the disability and adopting multiplier method, awarded a just and reasonable compensation. Further, the quantum of compensation under remaining heads were fixed by the Tribunal by following the Judgments of the Hon'ble Supreme Court in the case of Sarala Verma and others vs. Delhi Transport Corporation and another reported in 2009 TN MAC 1. In the considered view of this Court, the award is just and reasonable. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit.

10. For the foregoing reasons, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

skn

To

The Motor Accident Claims Tribunal,
III Additional District Judge,
Cuddalore at Vridhachalam.

+1cc to M/s.D.Veerasekaran, Advocate, S.R.No.22597

+1cc to M/s.K.Vinod, Advocate, S.R.No.22821

C.M.A.No.2146 of 2017

JP-II(CO)
RGA(06/05/2022)