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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA.No.3181 of 2017
and
CMP. No.19536 of 2017

National Insurance Co. Ltd.,
No.10, Flat No.101 - 106,
NIBMC House, Connaught Place,
New Delhi.

...Appellant/3rd Respondent

Vs.

1.Santhamani
2.Amsaveni
3.Venkatachalam

...1 to 3rd Respondents/1 to 3rd Petitioners

4.Saravanan
5.Rathinamani

...4 & 5th Respondents/1st & 2nd Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 10.06.2015 made in MCOP No.358 of 2012 on the file of the Motor Accidents Claims Tribunal / Additional Sub Court, Tiruppur.

For Appellant : Mr.S.Arunkumar

For R1 to R3 : Mr.M.Lokesh
For MA.P.Thangavel

J U D G M E N T

The Insurance Company / 3rd respondent in MCOP No.358 of 2012 on the file of the Motor Accidents Claims Tribunal / Additional Sub Court, Tiruppur is the appellant herein.

2.The said MCOP No.358 of 2012 had been preferred by the two daughters and one son of deceased Palanisamy, who died in an accident on 26.03.2012 at around 04.00 a.m, when he was driving a two wheeler and which two wheeler was hit by a Maruti Omni van bearing Registration No.TN-42-X-3580. He was taken to the



Government Hospital, Palladam and also to PSG Hospital, Coimbatore. He died in the hospital on the same day. The deceased was aged 60 years and was an agricultural coolie. It is claimed that he earned a monthly income of Rs.10,000/-.

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3.The Tribunal on consideration of the facts and circumstances had determined that the accident occurred due to the rash and negligent manner in which driver of the Maruti Omni van had driven the vehicle and thereafter, granted compensation and determined the monthly income at Rs.6,000/-. Taking into consideration that he would have earned as an agricultural coolie a sum of Rs.200/- per day. Thereafter, an increase of 15% towards future loss of income was granted and 1/3rd amount was deducted towards personal use for expenses and finally a sum of Rs.4,500/- was arrived at. By considering the age of the deceased, the Tribunal had adopted the multiplier of 7 and determined the loss of dependency towards income at Rs.3,78,000/- (Rs.4,500 x 12 x 7 = Rs.3,78,000).

4.The learned counsel for the appellant advanced arguments raising grievance with respect to the addition of 15% towards the future income. Taking into consideration the monthly income actually determined at Rs.4,500/-, let me not disturb that particular finding.

5.However, the Tribunal appears to have strayed away by granting a sum of Rs.1,00,000/- per claimant towards loss of love and affection and granted a total sum of Rs.3,00,000/- under that particular head. A perusal of the records reveals that the 1st claimant was aged 39 years and was married. The 2nd claimant was aged 33 years and was also married and the third claimant / son was aged 31 years. Fixing a sum of Rs.1,00,000/- each towards loss of love and affection at that advanced age, would not be proper particularly because their interests on their own families would far surpass their loss of their father, I would revise the same to a sum of Rs.15,000/- per person and grant a total sum of Rs.45,000/-.

6.There was yet another compensation granted under the caption of funeral expenses of Rs.25,000/- which I would not interfere with.

7.The total reduced compensation therefore, now granted is Rs.4,48,000/- (Rs.3,78,000 + Rs.45,000 + Rs.25,000 = Rs.4,48,000/-). The Tribunal directed the Insurance Company to deposit the award amount and then to recover it from the 5th respondent herein, which finding I would not interfere with. It is informed that 50% of the award amount had been deposited. The appellant / Insurance Company is directed to deposit the reduced compensation, along with interest of 7.5 % from the date of



filing of the petition till the date of deposit within a period of eight weeks from the date of receipt of a copy of this order and less the amount already deposited. On such deposit, the appellants are permitted to withdraw the same. The reduced compensation amount shall be apportioned amongst the claimants in the same ratio as ordered by the Tribunal. The Civil Miscellaneous Appeal is partly allowed. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

smv

To:-

1.The Motor Accident Claims Tribunal /
Additional Sub Judge,
Tirupur.

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

+lcc to Mr.S.Arunkumar, Advocate SR. No. 13157

+lcc to Ma.P.Thangavel, Advocate SR. No. 12438

CMA.No.3181 of 2017

and

CMP. No.19536 of 2017

AKII (CO)

PR (18/04/2022)