



CMA.No.2578 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

CMA.No.2578 of 2022

and

CMP.No.20016 of 2022

The United India Insurance Co. Ltd,
No.144-B, Kalpana Road
Udumalpet

... Appellant/ II Respondent

Vs.

1.M.Gowri

... I Respondent/ I Petitioner

2.Minor. M.Dinesh
(Minor is Rep. by his mother Gowri)

... II Respondent/ II Petitioner

3.R.Muthukrishnan

... III Respondent/ III Petitioner

4.Thangavel

... IV Respondent/ I Respondent

5.National Insurance Co. Ltd,
NO.101, 106, BMC House,
New Delhi

... V Respondent/ III Respondent



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PRAYER : Appeal filed under Section 173 of the Motor Vehicle Act against the judgment and Decree dated 26.06.2014 made in MCOP No.161 of 2012 on the file of the MACT (Sub Court) at Pollachi.

For Petitioner : M/s.I.Malar

JUDGEMENT

The insurance company has filed the above appeal challenging the award passed by the MACT, Sub Court, Pollachi in MCOP No.161 of 2012. The challenge is to the quantum of compensation that has been granted though they have also pleaded contributory negligence. The facts in brief are as follows.

2. The respondents 1 to 3 have filed the above claim petition seeking compensation for the death of one Murugan who is the husband of the 1st respondent, father of the 2nd respondent and son of the 3rd respondent in a road accident on 17.06.2012. They had claimed a compensation of a sum of Rs.2,00,000/-. It is their case that the deceased who is aged about 39 years at the time of the accident was a Supervisor in Spinning Mills at Pollachi and earning a monthly income of Rs.8,500/-.



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3. The respondents 1 to 3 had contended that the accident had occurred on 17.06.2012 at about 9:35 p.m. when the deceased Murugan was travelling from his house to his Mill on his Hero Honda Motor Cycle bearing Registration No.TN AB 8551. At that time the deceased had noticed a Hyundai Car which had met with an accident, he, therefore, stopped his motor cycle to examine the car and offer help. At that point, the tourist van bearing Registration No.TN M 4668 belonging to the 4th respondent and insured with the appellant herein was driven by the 4th respondent in a rash and negligent manner as a result of which, the van had hit the said Murugan who was standing behind the car and left the place without stopping. Thereafter, the van was seized by the police. After the investigation, they would submit that the accident had occurred only on account of the rash and negligent driving by the 4th respondent. The respondents 1 to 3 had also impleaded the insurance company of the motor cycle in which the deceased was travelling as the 5th respondent.

4. The appellant had filed a counter statement denying the nature of occurrence of the accident and also the age, occupation and income of the



deceased. They had also contended that the accident had occurred on account of the negligence of the deceased who during the late hours had stood in the middle of the road and invited the accident upon him.

5. The Tribunal below on perusing the evidence on record held that the accident had occurred only on account of the rash and negligent driving by the 4th respondent and ultimately arrived at a compensation of a sum of Rs.12,79,000/-. The respondents 1 to 3 had filed Ex.P.16 to Ex.P.18 to show the monthly income of the deceased. The Tribunal has adopted a notional income of Rs.7,500/- and deducted 1/3rd towards personal expenses and considering the age of the deceased adopted a multiplier of '15' and ultimately awarded a sum of Rs.11,79,000/- under the head of loss of income besides awarding amounts under the other heads namely loss of love and affection, funeral expenses, transport charges and loss of consortium etc. The amounts granted under the head of loss of love and affection is only Rs.30,000/- though the minor 2nd respondent and the father of the deceased, the 3rd respondent would be entitled to a sum of Rs.40,000/- each. The claimants have however not filed any appeal.



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6. The award appears to be very reasonable and I see no reason to set aside the same. The Civil Miscellaneous Appeal is dismissed. Consequently, to the dismissal of the appeal, the appellant/Insurance Company is directed to deposit the entire amount awarded by the Tribunal below, less the amount already deposited, with proportionate accrued interest and costs, to the credit of MCOP No.161 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Pollachi, within a period of six weeks from the date of receipt of a copy of this judgment, if not deposited earlier. On such deposit being made, respondents 1 & 3 are permitted to withdraw their respective shares as apportioned by the Tribunal below. Since the 2nd respondent being a minor in M.A.C.T.O.P.No.161 of 2012, his respective share of award amount as apportioned by the Tribunal shall be deposited in an interest bearing fixed deposit account in any Nationalized bank till he attains majority. However, the accrued interest under the fixed deposit shall be permitted to be withdrawn by the guardian/mother, 1st respondent once in 3 months directly from the bank. If the minor has attained the age of majority, it is open to him to file a formal petition before the Tribunal to get his share of



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apportionment. No costs. Consequently, the connected Miscellaneous
Petition is closed.

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Index : Yes/No
Internet: Yes/No
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To

1. The Motor Accidents Claims Tribunal,
(Sub Court) at Pollachi.
- 2..The Section Officer,
V.R.Section,
High Court, Madras.



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P.T. ASHA, J,

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