BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2022

CORAM

THE HON'BLE MRS JUSTICE J. NISHA BANU
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA (MD)Nos.663 of 2017 and 856 of 2022
and CMP(MD) No.6880 of 2017

CMA(MD) No.663/2017

M/s.Reliance General Insurance Company Ltd.,
Rep. by its Branch Manager,
No.38B, Jawaharlal Nehru Road
8th Floor, Kolkata .. Appellant/2nd respondent

Vs.

1.Ragini
2.Minor Prithiviraj
3.Minor Praveenkumar
4.Arumugam .. Respondents/ Petitioners

5.Pandi .. Respondent/ 1st respondent

CMA(MD) No.856/2022

1.Ragini
2.Minor Prithiviraj
3.Minor Praveenkumar
4.Arumugam .. Appellants/ Petitioners

Vs.

1.Pandi

2.M/s.Reliance General Insurance Company Ltd.,
Rep. by its Branch Manager,
No.38B, Jawaharlal Nehru Road
8th Floor, Kolkata .. Respondents/ Respondents

Common Prayer: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decreetal order dated 22.10.2016 made in MCOP No.961 of 2013 on the file of Motor Accident Claims Tribunal, (I Additional District Judge), Tirunelveli.

For Appellant Insurance Company	:	Mr.S.Srinivasaraghavan
For Respondents / claimants	:	Mr.T.Selvakumaran for R1 to R4

COMMON JUDGMENT

J. NISHA BANU,J.
and
N. ANAND VENKATESH,J.

The Insurance Company and the claimant have filed the appeal and cross appeal questioning the award passed by the Motor Accident Claims Tribunal, Tirunelveli, in MCOP No.961/2013, dated 22.10.2016.

2.The respondents in CMA No.663 of 2017, who were the claimants before the Tribunal, filed a petition seeking for compensation on account of the demise of one Prabhakar in a motor vehicle accident that took place on 21.07.2013 due to the rash and negligent driving of a Tractor, which was insured with the appellant Insurance Company.

3.Thc Tribunal, on appreciation of evidence and after considering the claim of compensation made under various heads, passed an award granting a total compensation of Rs.71,18,572/- along with interest at the rate of 7.5% per annum. Aggrieved by the same, the Insurance company has questioned the award both on the ground of negligence and quantum. The claimants have also filed a cross appeal in CMA(MD) No.856/2022 seeking for enhancement of compensation.

4.Heard the learned counsel for the claimant and the learned counsel for the Insurance Company.

5. This Court has carefully considered the submissions made on either side and the material available on record.

6. On carefully going through the award passed by the Tribunal, it can be seen that based on the evidence of P.W.1, the Tribunal has found that the Driver of the Tractor had crossed the barricade that was put in the centre of the road and he had, all of a sudden, crossed the road and as a result of the same, the car that was driven by the deceased, dashed on the Tractor. The Tribunal also considered the other materials, namely, the first information report, report of the Motor Vehicles Inspector and also the sketch and it came to a categorical conclusion that the negligence has been clearly established. This Court does not find any ground to interfere with the findings of the Tribunal on the issue of negligence.

6. The only other issue that requires the consideration of this Court is regarding the quantum that was fixed by the Tribunal. The evidence of P.W.3 shows that the deceased had completed the probation period and become a permanent employee. In view of the same, the Tribunal had also considered the future prospects of the deceased.

7. The grievance of the Insurance Company is that while deducting the income tax, the Tribunal did not make the deduction from the salary that

will be earned by the deceased on account of future prospects. On the other hand, the claimants have sought for enhancement of compensation mainly on the ground that the income tax was already deducted, even as per the salary slip that was marked in the course of trial.

8. Insofar as the claim made by the respondents/claimants, the Tribunal had rightly taken the monthly income as Rs.33,327/- and deducted 10% towards income tax from the yearly income. By doing so, the Tribunal has taken into account the total income and rightly deducted income tax from the total income.

9. While undertaking the exercise of deducting the income tax, the Tribunal ought to have deducted the tax both from the actual salary that was earned by the deceased as well as the salary, he would have earned towards future prospects. No such deduction was made by the Tribunal and as a result, the compensation has to be recalculated in the following manner:

1.Age of the deceased	:	28 years
2.Monthly income	:	Rs.33,327/-
3.Loss on account of future prospects (50% of salary)	:	Rs.49,971/-

4.Total income (2+3)	:	Rs.49,971/- rounded off to Rs.49,970/-
5.Annual income (49,970x12 months)	:	Rs.5,99,640/-
6.deduction of income tax 10%	:	Rs.59,964/-
7.annual Income – income tax	:	Rs.5,39,676/-
8.Deduction towards personal income	:	1/4th
9.Multiplier applicable	:	17
10.Future loss of income	:	Rs.5,39,676x17 x3/4 = Rs.68,80,869/-
11.General damages	:	Rs.1,60,000/- + Rs.30,000/- + Rs.70,70,869/-

10. In view of the above, the Civil Miscellaneous Appeals are disposed of by modifying the award passed by the Tribunal from Rs.71,18,562/- to Rs.70,70,869/- along with 7.5% interest from the date of petition till the date of deposit.

11. The appellant insurance company shall deposit the modified compensation amount along with accrued interest, after giving credit to the amount that had already been deposited. Such deposit shall be made within a period of eight weeks from the date of receipt of a copy of this judgment. The claimant will be entitled to withdraw the amount in the manner indicated by the Tribunal, after giving credit to the amount already withdrawn by them, if any. No costs. Consequently connected Miscellaneous Petition is closed.

(J.N.B.,J.) (N.A.V.,J.)
06.09.2022

Index : Yes/No
Internet : Yes
RR
To
1.The Motor Accident Claims Tribunal,
(I Additional District Judge),
Tirunelveli.

2.The VR Section
Madurai Bench of Madras High Court,
Madurai.

J. NISHA BANU,J.
and
N. ANAND VENKATESH,J.

RR

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