



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1291 of 2020
and CMP.No.9144 of 2020

THE MANAGER
UNIVERSAL SOMPO GENERAL INSURANCE CO. Ltd.,
LUZ CHURCH ROAD, MYLAPORE, CHENNAI 4.

...Appellant

Vs

- 1 S.LAKSHMI DEVI
- 2 MINOR. LALITHASRI, S/O. SURESH
- 3 MINOR. DEEPAK, S/O. SURESH
(MINORS REP BY THEIR MOTHER
LAKSHMIDEVI)
- 4 KANNIAMMAL
- 5 M/S. VANTEC LOGISTICS INDIA
PVT LTD. BANGALOW NO.3 NO.124 VALLAM
VILLAGE KANCHIPURAM.

...Respondent

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 30.04.2019 made in MCOP.No.118 of 2015 on the file of the Motor Accidents Claims Tribunal, District & Sessions Judge, Additional District court, Fast Track Court, Kancheepuram.



For Appellant : Mrs.R.Sree Vidhya
For Respondents : Mr.K.Varadha Kamaraj RR1 to 4
Notice dispense with for R5

J U D G M E N T

This appellant/Insurance company has come forward with the present appeal against the award and decree dated 30.04.2019 made in MCOP.Nos.118 of 2015 on the file of the Motor Accidents Claims Tribunal, District & Sessions Judge, Additional District court, Fast Track Court, Kancheepuram.

2.Brief fact which are necessary for disposal of this appeal are as follows:

On 11.11.2014 at about 15.30 hrs. The deceased Suresh was gone in his hero Honda Passion Plus Motor Cycle bearing Reg. No.TN 21 H 6847 from Kandigai towards Varanavasi and while so the deceased was gone on Oragadam to Walajabad Road near Indo Space Company, Banruti Kandigai, the 5th respondent Eicher Lorry bearing Reg. No.TN 231 AU 9387 which was proceeding on the backside and the same was driven by its driver in a rash and negligent manner and dashed at the backside of the deceased motorcycle and thereby, the said Suresh died on the spot. Thereafter, the dependents of the deceased have filed a claim petition under Section 166 M.V.Act,



claiming compensation of Rs.30,00,000/- before the Motor Accidents Claims Tribunal, Kancheepuram and the same was taken on file as MCOP. No118 of 2015.

3. Before the Tribunal, during trial, in order to prove the case, the claimants have examined three witnesses viz., PW1 and PW2 and marked Exs.P1 to P9, On the side of the Insurance Company, one witness was examined and five documents was marked. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition and awarded a sum of Rs.24,89,200/- as compensation to the claimant along with interest, aggrieved by the said award dated 30.04.2019, the appellant/insurance company has filed the present appeal before this Court.

4. The learned counsel for the appellant submitted that the income of the deceased was not proved before the Tribunal through any valid proof. That being so, the Tribunal has fixed the monthly income at Rs.12,000/- per month, which is unsustainable one. The other heads awarded by the Tribunal is highly excessive and therefore, the award passed by the Tribunal is liable to be quashed.



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5. The learned counsel for the claimants submitted that the accident had happened only due to the rash and negligence driving of the driver of the lorry and therefore, the insurance company is liable to pay the compensation. At the time of the accident, the deceased is aged about 31 years and was working as a driver and he was earned a sum of Rs.15,000/- per month as salary and the same was proved before the Tribunal through Bank Statement. The Tribunal, considering the entire facts, has rightly passed the award, which does not require any interference.

6. Heard the learned counsel on either side and perused the materials available on record.

7. On perusal of the award dated 30.04.2019 passed by the Motor Accident Claims Tribunal Salem, it is seen that the accident has not been disputed, and only the cause of accident, i.e. Whether the accident had occurred due to the rash and negligent driving of the driver of the lorry or due to the negligence of the claimant, was disputed. Though it was proved before the Tribunal that the accident had occurred only due to the rash and



negligent driving of the driver of the lorry. Therefore, the Tribunal has come to the conclusion that the appellant/ insurance company is liable to compensate the claimants for the death the said Suresh.

8. On careful perusal of the judgment of the Tribunal, it is seen that the Tribunal has adopted the correct multiplier method and correctly assessed the loss of income. Hence, the same does not require any interference by this Court. The amounts awarded towards other heads are also very reasonable and hence the same are also confirmed.

9. In view of the above, this Court do not find any error in the award dated 30.04.2019 passed by the Tribunal and there is no merit in the appeal and therefore, this Court is not inclined to interfere with the same.

10. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal as compensation to the respondents/claimants is hereby confirmed. The appellant insurance company is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited if any, within a period of six weeks from



the date of receipt of a copy of this judgment. on such deposit, the claimants are permitted to withdraw their share of the award amount with interest and costs, as per the ratio of apportionment fixed by the Tribunal, by filing necessary applications before the Tribunal. No costs. Consequently, connected miscellaneous appeal is closed.

22.12.2023

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Index : Yes

Speaking Order : Yes

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To

The Judge,

The Motor Accidents Claims Tribunal, District &
Sessions Judge, Additional District court,
Fast Track Court, Kancheepuram.



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M.DHANDAPANI,J.

Rli

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