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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1616 of 2010

1. Chandra

2. Muniyammal

3. Nanjundan

4. Minor Munirathinam

5. Minor Murugesan

(The petitioners 4 & 5 are rep. By
their Natural Friend, guardian,
the first petitioner)

6. Kuppammal

... Appellants

Vs

1. Jayaraman

2. The Branch Manager,
New India Assurance Co. Ltd.,
Branch Office, No.38-C, Bye-pass Road,
Hosur.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed against the Judgment and decree dated 15.10.2009 in MCOP No.127 of 2005 passed by the Motor Accidents Claims Tribunal/Sub Court, Hosur.

For appellants : Mr.R.Pandian

For respondent : Mr.M.Krishnamoorthy R2

R1 - NRN



claimants have come forward with this appeal before this Court.

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5. The learned counsel for the appellants/claimants submitted that the Tribunal failed to consider that the lorry was parked in the road negligently and the sugar bags were not tied properly and the accident occurred only due to negligent of the respondents, ought to have fixed the entire liability on the second respondent where there was a effective insurance policy at the time of the accident. The Tribunal fixed entire liability on the first respondent, ought to have fixed on the insurance company, which needs interference. Further, the amount awarded under the heads viz., love and affection, transportation, damages, which are very meagre and this Court may enhance the same.

6. Per contra, the learned counsel appearing for the second respondent submitted that on the basis of the evidence adduced, the Tribunal has awarded compensation, which is highly excessive and the same does not warrant any interference.

7. Heard the learned counsel for the appellants as well as the respondent and also perused the materials available on record before this

Court



8. The factum of the case are not in dispute. The manner of the accident is also not in dispute. The only issue that arises for consideration is with regard to the quantum of compensation awarded by the Tribunal under various heads, according to the claimant, which is very meagre.

9. It is seen from the claim petition that at the time of incident, the alleged lorry was not in motion. Hence, it is not an accident. The incident had happened only due to carelessness of the driver of the lorry. Therefore, the Tribunal has rightly come to the conclusion that the incident had happened only due to the carelessness of the lorry driver and hence, awarded pay and recovery method, which cannot be interfered with. Further, the order passed by the Tribunal towards compensation to the claimants are just and fair compensation, which needs no interference.

10. With the above discussion, the civil miscellaneous appeal is dismissed. No costs. The compensation awarded by the Tribunal is confirmed and the appellant is directed to pay compensation as awarded by the Tribunal to the claimant with 7.5% interest per annum from the date of petition till the date of realization, within a period of four weeks from the date of receipt of a copy of this order and thereafter, recover the same from the owner of the lorry. On such deposit being made, the Tribunal is directed to transfer the amount to the bank account of the claimants as apportioned by



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the Tribunal through RTGS within a period of two weeks thereafter.

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13.10.2023

Index : Yes/no
Internet : Yes/no

To

The Motor Accidents Claims Tribunal/Sub Court, Hosur.



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M.DHANDAPANI.,J.

rli

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