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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2024

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.825 of 2009

M/s.United India Insurance Co. Ltd.,
No.77, Arunachala Asari Street,
Salem-636 0010.

... Appellant

Vs

1. Chellamuthu

2. Dhanalakshmi

3. P.Mani

4. Lakshmana Perumal

5. M/s. National Insurance Co. Ltd.,
Krishnagiri Branch,
305, Bangalore Road,
Krishnagiri.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed against the Judgment and decree dated 06.07.2007 in MCOP No.534 of 2002 passed by the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Salem.

For appellant : Mr.S.Arun kumar

For respondent : Ms.N.B.Surekha R5

R1- No appearance

R2 to R4 – NRN

**J U D G M E N T**

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2. It is the case of the claimant that on 01.05.2008 when the deceased was driving his tempo bearing Reg. No.TAS 9292 by loading tomatoes from the producers, at that time, a lorry bearing Reg. No.TCF 2349, driven by its driver, came in opposite direction, in a rash and negligent manner and dashed against the appellant, due to which, the appellant sustained grievous multiple injuries and admitted in Hospital and taken treatment and thereafter, he died on 03.05.2008. Thereafter, the dependents of the deceased, who is the mother and sister, have filed a claim petition before the Tribunal claiming compensation.

3. In order to prove his claim, the claimants have examined 2 witnesses viz., P.W.1 and P.W.2 and marked 3 documents viz., Ex.P1 to Ex.P3. On the side of the insurance company, one witness was examined and one document was adduced. After analyzing the evidences, the Tribunal has awarded a sum of Rs.4,33,000/- as compensation payable by the Insurance Company.



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4. Challenging the quantum of compensation, the appellant/insurance company has come forward with this appeal before this Court.

5. The learned counsel for the appellant/insurance company submitted that the accident had happened due to rash and negligent driving of the deceased. The driver of the lorry was not responsible for the accident and therefore, the appellant, who is the insurer of the lorry, was not liable to compensate the claimant. Further, the claims Tribunal erred in applying 17 years multiplier without considering the judgments and also the second respondent is married and not a dependant on the deceased. The award passed by the Tribunal is highly excessive, which warrants interference of this Court.

6. Per contra, the learned counsel appearing for the respondents 1 & 2/claimants submitted that on the basis of the evidence adduced, the Tribunal has awarded compensation, which is just and fair and the same does not warrant any interference.

7. Heard the learned counsel for the appellant as well as the

respondents and also perused the materials available on record before this



Court.

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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 highly excessive.

9. The Tribunal has found that the accident had happened only due to the rash and negligent driving of the driver of the lorry, for which, the Tribunal has rightly applied pay and recovery method, which cannot be interfered with. Further, the age of the deceased is 30 years at the time of the accident and the Tribunal has fixed the monthly income of Rs.3000/- per months and adopted 17 multiplier. The Tribunal has rightly passed award under the head "loss of income" and other heads awarded by the Tribunal is just and reasonable, which needs no interference.

10. With the above discussion, the writ petition 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 through RTGS within a period of two weeks thereafter.

13.10.2023

Index : Yes/no
Internet : Yes/no

To

The Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Salem.



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M.DHANDAPANI.,J.

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