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C.M.A.No.1739 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.07.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGN

C.M.A.No.1739 of 2018

1. R.Anitha Kumari
2. R.Srinivasan
3. R.Palani
4. R.Arun

...Appellants

Vs.

1. M.Veeramani
2. The New India Assurance Co. Ltd.,
MTPC, 45, Moore Street,
Chennai – 600 001.

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173(1) of Motor Vehicle Act, 1988, challenging the fair and decreetal order dated 02.04.2014 made in M.C.O.P.No.4526 of 2009 by the learned Motor Accident Claims Tribunal, (Special Sub Judge-I), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : Mr.G.Anandan for R2
R1 – Ex-parte



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5 Before the claims Tribunal, on the side of the appellants/claimants,

P.Ws.1 and 2 were examined and Exs.P1 to P7 were marked. On the side of the second respondent/Insurance Company, no oral and documentary evidence was let in.

6 The Tribunal, on an assessment of the entire evidence on record, fixed the liability on the appellant/Insurance Company and awarded a sum of Rs.2,19,000/- as compensation along with 7.5% interest and directed the appellant/Insurance Company to pay the award amount. Not being satisfied with the compensation ordered by the Tribunal, the appellants have come forward with the present civil miscellaneous appeal seeking enhancement.

7 Learned counsel appearing for the appellants/claimants would submit that the age of the deceased at the time accident was 30 years and he was earning Rs.6,000/- per month by working as Driver, but the Tribunal failed to consider the same and fixed the monthly income at Rs.3,000/-, which is very meagre. Further the compensation awarded under other heads are also very meagre, which needs to be enhanced.



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Learned counsel appearing for the second respondent/Insurance Company would submit that at the time of accident the deceased was bachelor and the appellants/claimants are not a dependents of the deceased and they are only married elder brothers and sister. Even though the appellants are not the dependents of the deceased and they are only married elder brothers and sister, the Tribunal adopted multiplier 17 and awarded Rs.2,04,000/- towards pecuniary loss and Rs.15,000/- towards funeral expenses, which is reasonable and the same does not call for any interference of this Court. Hence the appeal is liable to be dismissed.

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

10 The accident is not in dispute and the fact that at the time of accident, the vehicle was covered under the insurance policy with the second respondent, is also not in dispute. It is to be noted that to claim compensation under the Motor Vehicles Act, the claimants should be dependents of the deceased, which is the condition precedent. In this case, admittedly the claimants are not the dependents of the deceased and they are only elder



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brothers and sister, who were married and living with their family separately.

The claimants have also not produced any proof to show that the deceased was working as Driver and earning Rs.6000/-p.m. Therefore, considering the facts and circumstances of the case, the Tribunal fixed the notional income of the deceased at Rs.3000/- p.m. and awarded a sum of Rs.2,04,000/- towards pecuniary loss and Rs.15,000/- towards funeral expenses and totally Rs.2,19,000/- was awarded by the Tribunal. This Court does not find any perversity in appreciation of evidence by the Tribunal and the award passed by the Tribunal is just and fair and the same needs no interference of this Court.

11 Accordingly, the Civil Miscellaneous Appeal stands dismissed.

However, there shall be no order as to costs.

20.07.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

The Motor Accident Claims Tribunal,
(Special Sub Court-I), Chennai.



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P.VELMURUGAN. J.,

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