IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :24.01.2023

Judgment Pronounced on :20.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2961 of 2019
and
C.M.P.No.15789 of 2019

M/s.IFFCO-TOKIO General Insurance Company Limited,
At No.128, 5th Floor, Habibullah Road,
T.Nagar, Chennai - 600 017. ... Appellant

vs.

1.R.Vijayalakshmi @ Viji
2.R.Rathinasabapathy
3.R.Venkatesh
4.Kumar Sankaraguru
5.ICICI Lombard General Insurance Company Limited,
Building No.142, 1st Floor,
ECR Main Road, Near Latha Steel House,
Kottupalayam, Puducherry - 605 008.
6.Razhiyabi.A ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 15.12.2017 made in M.C.O.P.No.2566 of 2013 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Cuddalore.

For Appellant : Mr.S.Arunkumar

For R1 to R3 :Mr.S.C.Viswanath

For R5 : Mrs.R.Sreevidhya

For R6 : No appearance

JUDGMENT

The Insurance Company is the appellant herein. Challenging the award made in M.C.O.P.No.2566 of 2013 on the ground that the Tribunal has erred in adopting the multiplier method as stated in the Sarala Verma's case for a petition filed under Section 163-A of the Motor Vehicles Act and grant of future prospectus for the same is also under challenge.

2. The respondents 1 to 3 are the claim petitioners before the Tribunal. The 4th respondent is the owner of the vehicle and the respective insurance companies are the second respondent herein and the appellant herein.

3. As to the point of manner of the accident, P.W.2 and P.W.3 were examined. They are third party to the proceedings. Their evidence is

found to be inspiring the evidence of the court. Accordingly, the Tribunal has rightly accepted the version of P.W.2 and P.W.3 regarding the manner of the accident and rightly come to the conclusion that the vehicle insured with the appellant/Insurance Company was driven by its driver in a rash and negligent manner and hence both the owner of the vehicle and the appellant/insurance company are jointly and severally liable to pay the compensation.

4. After going through the evidence of P.W.2 and P.W.3 coupled with Ex.R1, I find that their evidence is clear and cogent and duly corroborated with Ex.R1 coupled with the fact that though the driver of the vehicle insured with the appellant was examined as R.W.1, the trial Court has rightly discarded his evidence as interested witness and his statement as a self serving statement and hence I find that the finding of the tribunal that the driver of the vehicle insured with the appellant is rash and negligent and caused the accident does not suffer from any illegality or irregularity warranting interference at this appellate stage.

5. At the time of the accident, the age of the deceased is 21 years and date of birth is 01.06.1991 and notional income of Rs.7500/- was given and annual income is arrived at Rs.90,000/- and after going

through the various heads of compensation, I find that the award passed by the tribunal is just and fair and does not require any modifications.

6. Though the learned counsel for the appellant insurance company has raised a plea that the claim petitioners have filed the claim petition under Section 163-A and no default liability, therefore, the tribunal ought not to have adopted multiplier method as settled in S.V's case and ought to have adopted only the structured formula and future prospectus ought not to have granted, however, after going through the lower Court records, I find that pending M.C.O.P they have filed I.A.No.1535 of 2016 for amendment of Section 163-A to 166(1) of MV Act and the same was allowed on 26.03.2016 and the claim petition was suitably amended and hence the contention raised by the learned senior counsel is found to be a factual error as per the records and hence the said contention, stands negatived.

7. Accordingly, Civil Miscellaneous Appeal is dismissed. Time for depositing the amount shall be within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected C.M.P is closed.

20.02.2023

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes/ No

To

1.The Motor Accidents Claims Tribunal
Principal District Judge, Cuddalore.

2. The Section Officer,
V.R.Section, High Court of Madras,Chennai.

RMT.TEEKAA RAMAN, J.,

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Judgment in
C.M.A.No.2961 of 2019 and
C.M.P.No.15789 of 2019

20.02.2023