



*C.M.A.No.2146 of 2018 and
C.M.P.No.16771 of 2018*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.09.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

**C.M.A.No.2146 of 2018 and
C.M.P.No.16771 of 2018**

The Branch Manager
National Insurance Company Limited,
Attur, Salem District – 636 102.

...Appellant

Vs.

1. Jansi Rani
2. Sangeetha

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, challenging the fair and decretal order dated 31.10.2017 in M.C.O.P.No.624 of 2014 by the learned Motor Accident Claims Tribunal (Principal District Judge) at Perambalur District.

For Appellant : Mrs.R.Sree Vidhya

For Respondents : Mr.S.Ramprabu for R1



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JUDGMENT

This appeal is filed challenging the fair and decretal order dated dated 31.10.2017 in M.C.O.P.No.624 of 2014 by the learned Motor Accident Claims Tribunal (Principal District Judge) at Perambalur District.

2 The appellant is the Insurance Company, first respondent is claimant and second respondent is owner of the offending vehicle.

3 The first respondents/claimant filed claim petition in M.C.O.P.No.624 of 2014 claiming compensation of Rs.25,00,000/- for the death of Chinnarasu, who is husband of the first respondent/claimant.

4 The claim petition was contested by the appellant/Insurance Company and they filed detailed counter denying all the allegations apart from disputing the liability. The second respondent/owner of the vehicle remained ex-parte before the Tribunal.

5 Before the claims Tribunal, on the side of the first



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respondent/claimant P.Ws.1 and 2 were examined and Exs.P1 to P7 were marked. On the side of the appellant/Insurance Company, R.W.1 to R.W.4 were examined and Exs.R1 to R8 were marked besides X5.

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.5,60,006/- as compensation along with 7.5% interest and directed the appellant/Insurance Company to pay the award amount. Challenging the quantum of compensation awarded by the Tribunal, the Insurance Company has filed the present appeal.

7 Learned counsel appearing for the appellant/Insurance Company would submit that the claimant filed the claim petition both under Section 163(A) and 166 of the Motor Vehicles Act, 1988 (in short 'the Act'), which should not be entertained. Either the petitioner can file petition under Section 163(A) or 166 of the Act. The Tribunal for awarding compensation, adopted 163(A) and fixed the annual income of the deceased as Rs.40,000/-. As per Section 163(A), before amendment, in respect of death resulting from hit and run motor accident, the fixed compensation would be only Rs.2.00 lakhs and in



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respect of grievous hurt, the compensation would be Rs.50,000/-. But in this case, the Tribunal adopted 163(A) but, erroneously applied multiplier method and awarded a sum of Rs.5,60,000/-, which is not legally sustainable.

7.1 The learned counsel appearing for the appellant/Insurance Company would fairly submit that considering facts of the case and the age of the deceased, the appellant is now ready to pay Rs.2.50 lakhs.

8 Learned counsel appearing for the first respondent/claimant would submit that the deceased died due to the injuries sustained in the accident. Even though the claim petition filed under Section 163(A) and 166, the Tribunal adopted 163(A) and since the deceased was only 21 years old at the time of accident, applied multiplier method and awarded the compensation, which does not call for any interference of this Court.

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

10 According to the first respondent/claimant, on 20.04.2014 while



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Chinnaraj husband of the claimant ridding his two wheeler at that time the other two wheeler bearing Reg.No.TN 77 B 4136 coming from opposite direction driven in a rash and negligent manner hit against the two wheeler and caused accident, in which the said Chinnaraj sustained grievous injuries and succumbed to the injuries. Therefore they filed claim petition and the Tribunal also rightly appreciated the facts of the case and awarded fair compensation.

11 Per contra, the learned counsel appearing for the appellant contended that the Tribunal cannot adopt both Section 163(A) and 166 of the MV Act. The Tribunal being adopted Section 163(A), instead of awarding the lump sum, erroneously awarded Rs.5,60,006/-, which is erroneous and the same is liable to be set aside. But, the learned counsel fairly admitted that the appellant is now ready to pay Rs.2.50 lakhs.

12 A perusal of the impugned order reveal that as contended by the learned counsel for the appellant the Tribunal went in wrong in being adopting Section 163(A) awarded Rs.5,60,006/-. The accident was in the year of 2014. As per Section 163(A), before amendment, in respect of death, compensation would be Rs.2.00 lakhs and in respect of grievous hurt the compensation would



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be Rs.50,000/-. Considering the facts of the case and in view of the submissions made by the learned counsel appearing for the appellant that the appellant/Insurance Company is now ready to pay Rs.2.5 lakhs as compensation, this Court is inclined to set aside the award passed by the Tribunal.

13 Accordingly the appeal is partly allowed and the award passed by the Tribunal is set aside. The appellant is directed to deposit Rs.2.50 lakhs before the Tribunal and on receipt of the same, the Tribunal is directed to credit the award amount directly to the account of the claimant without any formal application as per the decision of the Division Bench of this Court reported in *2016 (2) LW 561 (The Divisional Manager, The Oriental Insurance Company Limited, Kannur, Vs. Rajesh and Others)*. Connected miscellaneous petition is also closed. There shall be no order as to costs.

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

To



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1. Motor Accident Claims Tribunal
(Principal District Judge) at Perambalur District.
2. The Section Officer, V.R.Section, High Court, Madras.



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P.VELMURUGAN. J.,

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