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CMA.No.805 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.805 of 2018

1. A.Bujji
2. A.Jyothi

Appellants

Vs

1. R.Anandharaj
2. The Reliance General Insurance Company Limited
Chennai-34

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 22.01.2018, made in MCOP.No.5633 of 2015, by the Chief Judge, Court of Small Causes (MACT) Chennai.

For Appellants : Mr.K.Suryanarayanan

For Respondents : Mr.C.Bhuvanasundari-R2

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimants, against the judgement and decree, dated, 22.01.2018, made in MCOP.No.5633 of 2015, by the Chief Judge, Court of Small Causes (MACT) Chennai.
2. The claimants, who are the parents of the deceased, namely, Lakshminarayana, have filed the claim petition before the Tribunal, seeking a compensation of Rs.10,00,000/- on various heads, for the death of the deceased, who died in a motor road accident, which took place on 25.05.2015. The claim petition was resisted, on various grounds, by the 2nd



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Respondent Insurance Company, by filing a counter. The 1st Respondent, owner of the offending vehicle remained exparte. On the side of the claimants, PW.1 and PW.2 were examined and Ex.P1 to Ex.P11 were marked. On the side of the 2nd Respondent Insurance Company, RW.1 was examined and Ex.R1 to R3 were marked.

3. Finding that the deceased died in the alleged motor road accident due to the rash and negligent driving of the driver of the offending vehicle, belonging to the 1st Respondent, the Tribunal has awarded a total compensation of Rs.1,80,000/- (Rs.1,50,000/- towards loss of pecuniary benefits+Rs.15,000/- for loss of estate+Rs.15,000/- for funeral expenses) with interest at 7.5% p.a. from the date of the claim petition till the date of realization. Aggrieved by the quantum of compensation, this appeal has been filed by the claimants.
4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.
6. According to the learned counsel for the Appellants, since the deceased was a school student, aged 13 years at the time of the accident, the Tribunal ought to have fixed notional monthly income and adopted multiplier method and accordingly, awarded compensation under the loss of dependency and no



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compensation was awarded under the head of loss of love and affection.

According to the learned counsel for the 2nd Respondent/ Insurance Company, the compensation awarded by the Tribunal is just and proper.

7. Admittedly, the deceased, aged 12 years at the time of the accident was studying VII Standard. His earnings at a future point could be not less than Rs.5,000/-. It would be appropriate to add 40% towards future prospects. Since the deceased was aged below 15 years, multiplier of 15 would be proper. Then, after deducing 50% towards personal expenses, the total loss of dependency would come to Rs.6,30,000/- (Rs.3500x12x15). A further sum of Rs.40,000/- towards loss of love and affection for the claimants is granted. The compensation awarded under the other heads by the Tribunal are retained.

8. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimants are entitled to a total compensation of Rs.7,00,000/- (Rupees seven lakhs only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Dependency	630000.00
2	Loss of Love and Affection	40000.00
3	Loss of Estate	15000.00
4	Funeral Expenses	15000.00
Total Compensation		700000.00

The 2nd Respondent Insurance Company is directed to deposit the entire



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award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited,

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within a period of six weeks from the date of receipt of a copy of this order.

On such deposit being made, the claimants 1 and 2 are entitled to withdraw Rs.3,50,000/- and Rs.3,50,000/- respectively with proportionate interest, by filing proper application and by filing proper court fee for the enhanced amount. No costs.

30.06.2023

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

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To

1. The Chief Judge, Court of Small Causes (MACT) Chennai.
2. The Record Keeper, VR Section, High Court, Madras

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