



C.M.A.No.1580 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

THE HONOURABLE MR JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS JUSTICE R.KALAIMATHI

C.M.A.No.1580 of 2023

and

C.M.P.No.15906 of 2023

Reliance General Insurance Company Limited,
Serving Branch Office,
Sri Lakshmi Complex, 1st Floor,
Bharathi Street, Omalur Main Road,
Swarnapuri, Salem – 636 004.

...Appellant

Vs.

1.Premalatha

2.Minor R.Kamalanath

3.Minor R.Diviya Dharshini
(2 & 3 Minor petitioners represented by
their next friend / mother Premalatha)

4.Parvathi

5.Tamil Selvan

6.Royal Sundaram General Insurance Company Limited,
Branch Office No.8/1, Mangalam Building,
4 Roads, Salem – 636 009.

...Respondents



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Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.414 of 2020 dated 11.01.2020 on the file of the MACT, Special District Court, Dharmapuri.

For Appellant : Mr.P.Suresh Srinivasan

J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The Insurance Company is on appeal, challenging the award of a sum of Rs.39,58,167/- as compensation for the death of one Ramachandran in a motor accident that took place on 25.09.2009.

2.According to the claimants, while the said Ramachandran driving his TATA Indigo car bearing Registration No.TN-29-H-4669 at Vellore-Chennai National Highway towards Chennai at about 6.45 a.m, a lorry bearing Registration No.KA-02-AD-4577, which was proceeding ahead of the Car, suddenly turned towards left side and stopped in the middle of the road almost suddenly without any signal. Though the driver of the Car was unable to stop the vehicle despite his best efforts, hit against the



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backside of the lorry. As a result of the impact, the driver sustained injuries and died on 06.10.2009. Claiming that the rash and negligence driving on the part of the lorry driver was cause for the accident and that the deceased was working as Audit Superintendent in Hindu Religious & Charitable Endowment Department drawing a salary of Rs.28,000/- per month, the claimants sought for a compensation of Rs.50,00,000/-.

3.The owner of the lorry remained exparte. The Insurer namely, the 2nd respondent resisted the petition contending that the accident did not happened in the manner suggested by the claimants and it was the negligence on the part of the car driver that was caused the accident. The fact that the First Information Report was filed against the driver of the car was also projected as a defence. It was also claimed that the driver of the lorry did not have a valid driving license. It was further claimed that the lorry had come to all of sudden abruptly due to a tire burst.

4.At trial, the wife of the deceased was examined as P.W.1 and one Rajeswari was examined as P.W.2. Exs.P1 to P18 were marked. The 3rd



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respondent one, Tamilselvan was examined as R.W.2. One Venkatraman was examined as R.W.2. They supported the case of the claimants. R.W.3 is the Officer of the Insurance Company. Exs.R1 and R2 were marked on the side of the Insurance Company.

5.The Tribunal, upon a consideration, believed the evidence of R.W.1 and R.W.2, while rejecting the claim of the Insurance Company based on the First Information Report. The rejection was because of the fact that it was the driver of the lorry, who gave the First Information Report. On his complaint, the First Information Report was registered. The Tribunal found that the accident occurred due to the negligence on the part of the lorry. The plea that there was a tire burst raised as a reason was noticed by the Tribunal in coming to such conclusion.

6.On the quantum, the Tribunal took into account the unimpeachable evidence by way of salary certificate issued by the Government Department and fixed the monthly income at Rs.27,527/-. It added 30% towards future products, deducted $\frac{1}{4}$ towards personal expenses



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of the deceased and by applying multiplier of 13, arrived at the pecuniary loss at Rs.37,68,167/-. The Tribunal, awarded a sum of Rs.40,000/- towards loss of consortium to the 1st petitioner, Rs.80,000/- towards loss of parental consortium to the petitioners 2 and 3, who are the children of the deceased and Rs.40,000/- to the 4th claimant / mother of the deceased towards loss of filial consortium and it also awarded Rs.15,000/- each towards loss of estate and funeral expenses. Thus, the Tribunal arrived at a total compensation of Rs.39,58,157/-.

7.We have heard Mr.P.Suresh Srinivasan, learned counsel for the appellant.

8.Despite his best efforts, the learned counsel for the appellant is unable to pick holes in the award of the Tribunal. As we have adverted to the counter itself, there is a pleading that there was a tire burst, which caused the lorry to stop midway. That by itself would be sufficient to uphold the claim of negligence on the part of the lorry driver. Apart from that, the evidence of R.W.1 & R.W.2 has been believed by the Tribunal and we do not



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see any reason to interfere with the conclusions of the Tribunal based on the evidence of R.W.1 and R.W.2. On the quantum, unimpeachable evidence of income is available and the Tribunal is only adopted the guidelines of the Hon'ble Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Others** reported in **(2017) 16 SCC 680** in arriving at the compensation. The learned counsel for the claimant is unable to assail the award of the Tribunal.

9.We are therefore, unable to fault the Tribunal for having arrived at the compensation of Rs.39,58,167/-. We therefore, see do not see no reason to interfere with the award of the Tribunal. This Civil Miscellaneous Appeal is therefore, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (R.K.M.,J.)

08.08.2023

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Internet:Yes

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Speaking

Nuetral Citation : No



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WEB COPY To:-

The Motor Accident Claims Tribunal,
Special District Court,
Dharmapuri.



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and
R.KALAIMATHI, J.

KKN

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