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C.M.A.No.1779 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.1779 of 2022

The Manager,
Reliance General Insurance Company Ltd.,
No.73, 1st Floor, HDFC Bank,
Officer Line, Vellore – 632 001.

... Appellant

VS

1.Nirmala
2.Rajendran
3.Vasanthi
4.Kalyani
5.Harikrishnan

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 7.01.2020 passed in M.C.O.P.No.20 of 2016 by Motor Accident Claims Tribunal, II Additional District Court, Ranipet.

For Appellant : Mrs.C.Bhuvanasundari

For For RR1 to 4 : Mr.M.Lokesh

For R5 : No appearance

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J U D G M E N T

(Judgment of the Court was delivered by
K.GOVINDARAJAN THILAKAVADI, J.)

This appeal has been filed by the Insurance Company, challenging the impugned award dated 07.01.2020, passed by the Motor Accident Claims Tribunal, II Additional District and Sessions Judge, Vellore, Ranipet, in M.C.O.P.No.20 of 2016.

2. The above appeal is challenged on the ground of negligence and quantum of compensation awarded by the Tribunal.

3. According to the learned counsel appearing for the appellant / Insurance Company, the above accident took place due to the negligence on the part of the deceased. The further contention of the learned counsel for the appellant / Insurance Company is that, the Tribunal had erred in assuming that the deceased was a driver when no driving license has been produced and marked. Hence, the notional income as fixed by the Tribunal



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is at Rs.12,000/- per month, which is on the higher side is liable to be reduced.

4. It is seen from the impugned award that the Tribunal has given a categorical finding that the alleged accident occurred only due to the rash and negligent act of the driver of the offending vehicle, based on Ex.P.1 / FIR and the evidence deposed by P.W.2 / eye witness. No contra evidence was let in on the side of the first respondent to prove that the negligence was on the part of the deceased. Hence, this Court finds no reason to interfere with the findings rendered by the Tribunal in respect of negligence fixed on the first respondent.

5. With regard to quantum, the Tribunal has awarded a sum of Rs.24,59,800/- under various heads.

6. According to the claimants the deceased, at the time of accident, was a self-employee. There was no contra evidence on the side of the



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appellant before the Tribunal to dispute the same. Therefore, the Tribunal has taken Rs.12,000/- per month as a notional income of the deceased and after adding 40% for Future Prospects, the total income of the deceased was fixed at Rs.16,800/- per month. The brother and sister of the deceased are arrayed as petitioners 4 and 5, in the claim petition. However, the Tribunal has not awarded any compensation to the said petitioners, stating that they are not the dependents of the deceased. Hence, as per the decision of the Hon'ble Supreme Court in the case of *National Insurance Company Ltd., Vs. Pranay Sethi and Others* reported in *2018(1) LW 331*, the Tribunal has rightly deducted 1/3rd for personal and living expenses of the deceased. Since the age of the deceased was 29 years at the time of accident, the Tribunal has applied the multiplier method of “17” for calculating the loss of dependency, which in our considered opinion is proper. As per the dictum laid down in the judgment of the Hon'ble Supreme Court of India in the case of *Sarla Verma & Others .Vs. Delhi Transport Corporation & another*, reported in *2009 (2) TNMAC 1 (SC)*. After considering the oral and documentary evidence, the Tribunal awarded a total compensation to



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the petitioner under the following heads.

S.No.	Heads	Amount (Rs.)
1	Transportation to the hospital & for taking the body	5,000/-
2	Funeral Expenses	15,000/-
3	Loss of Consortium to the 1 st petitioner (wife)	40,000/-
4	Loss of love and affection (2 nd and 3 rd petitioners each Rs.50,000/-)	1,00,000/-
5	Loss of dependency	22,84,800/-
6	Loss of Estate	15,000/-
	Total	24,59,800/-

This Court finds that the compensation awarded by the Tribunal is just and reasonable and calls for no interference.

8. In the result, this Civil Miscellaneous Appeal preferred by the appellant/transport corporation is dismissed and the compensation awarded by the Tribunal at Rs.24,59,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit is confirmed. The appellant-Transport Corporation is directed to deposit the entire award



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amount along with interest and costs, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent/claimant is permitted to withdraw the award amount along with interest fixed by the Tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

(D.K.K.J.) (K.G.T.J.)

16.03.2023

Index : Yes/No

Neutral Citation : Yes/No

Speaking / Non- Speaking order

vsn/ata



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The Motor Accident Claims Tribunal,
II Additional District Court,
Ranipet.



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