



C.M.A.No.345 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 14.02.2023	Pronounced on 21.02.2023
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.345 of 2023

1.Rajeswari,
Wife of Late Chinnadurai

2.Thilagavathi,
Wife of Selvam

3.Ashok
Son of Late Chinnadurai

4.Minor Viji
Son of Late Chinnadurai
*(The minor is represented by his
next friend/guardian/mother Rajeswari)*

5.Alamelu
Wife of Chinnaraj

6.Chinnaraj
Son of Palaniyappan

All are residing at
D.No.4/80, Dasasamuthiram
Salem Taluk
Salem District 636 305.

... Appellants



C.M.A.No.345 of 2023

Vs.

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1.R.Rajeswari
Wife of Ramesh
D.No.353, North Street
Madha Kovil Street
Lalgudi, Trichy District 621 601.

2.M/s.The Oriental Insurance Co. Ltd.,
Represented by its Divisional Office,
Diwya Towers, Fort main Road, Salem 1.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 26.09.2019 made in MCOP.No.1865 of 2018 on the file of the Special District Judge/Motor Accident Claims Tribunal, Salem.

For Appellants : Mr.M.Guruprasad

For Respondents : Mr.J.Chandran (for R2)

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 26.09.2019 made in MCOP.No.1865 of 2018 on the file of the Special District Judge/Motor Accident Claims Tribunal, Salem.

2.The claim Petitioners are the Appellants herein and they filed this



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Appeal, seeking enhancement of compensation awarded in MCOP.No.1865 of 2018 on the file of the Special District Judge/Motor Accident Claims Tribunal, Salem.

3.For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4.The legal representatives of the deceased Chinnadurai filed MCOP.No.1865 of 2018 before the Special District Judge/Motor Accident Claims Tribunal, Salem, seeking compensation and filed this Appeal on the point of quantum.

5.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.



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6.During the trial, on the side of the claim Petitioners, PW1 to PW4 were examined & Ex.P.1 to Ex.P.23 were marked and on the side of the Respondents, none was examined and no document was marked.

7.Heard the learned counsel appearing on behalf of the claim Petitioners and the learned counsel appearing on behalf of the Insurance Company.

8.Learned counsel for the Appellants would contend that the deceased was working as worker in M/s.Sheshasayee Paper Mills and Boards, Pallipalayam and marked Ex.P.22/Service order. But the Tribunal erroneously took the notional income at Rs.10,000/- and there is no dispute on the amount awarded towards other heads.

9.The evidence of PW3/authorised contractor of M/s.Sheshasayee Paper Mills and Boards, PW4/Chief Executive of M/s.Sheshasayee Paper Mills and Boards revealed that the deceased was working under a contractor and was earning a sum of Rs.16,000/- per month. However, the claim Petitioners have not marked the salary bill to substantiate the same and hence, the Tribunal has



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rightly come to the conclusion that though oral evidence of PW3 & PW4 are to the effect that the deceased was employed, salary bill was withheld for the reasons best known to them and hence, the Tribunal fixed the monthly income at Rs.10,000/-, added 25% towards future prospects, deducted 1/3rd towards personal expenses, adopted "14" as multiplier as per the judgment of the Hon'ble Supreme Court in the case of *Sarla Verma & Others .Vs. Delhi Transport Corporation & another*, reported in *2009 (2) TNMAC 1 (SC)* and calculated loss of dependency as Rs.14,00,112/-. After adding Rs.40,000/- towards loss of consortium, Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate, arrived total compensation at Rs.14,70,112/-. The same is just and fair and therefore, the award passed by the Tribunal does not require any interference of this Court.

10.In fine, the Civil Miscellaneous Appeal is dismissed. No costs.

21.02.2023

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

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RMT.TEEKAA RAMAN.J,

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To

The Special District Judge
Motor Accident Claims Tribunal,
Salem.

Pre-delivery Judgment made in

C.M.A.No.345 of 2023

Dated: 21.02.2023