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C.M.A.No.2217 of 2



THE HIGH COURT OF JUD ICATURE AT MADRAS

DATED: 15.09.2023

CORAM:

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

C.M.A.No.2217 of 2023

and

C.M.P.No.21292 of 2203

Reliance General Insurance Co. Ltd.,
Reliance Tower,
No.6, Reliance House, Haddows Road,
Nungambakkam, Chennai - 600 006.

...Appellant

Vs.

1.S.N.Mahalakshmi
2.S.N.Jeshwanth
3.S.N.Shree Shaa
4.S.N.Shree Shai
5.K.Seshaiya
6.Mahalakshmi
7.S.Sathish Kumar

...Respondents

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the order of Award dated 05.12.2002 passed in MCOP.No.2495 of 2017 on the file of the Motor Accidents Claims Tribunal (Court of Small Causes-III), Chennai.



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For Appellant : Mr.G.Vasudevan

For Respondents :Mr.S.P.Yuaraj for R1 to R6

J U D G M E N T

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

The Insurance Company is on appeal. Challenge is to the quantum of compensation awarded in MCOP.No.2495 of 2017. The claimants sought for a compensation of Rs.30,00,000/- for the death of one S.Nagarjuna, who died in a motor accident that occurred on 16.09.2016 when a lorry bearing registration No.TN-18-AZ-5560 came from behind and hit against the two wheeler bearing registration No.TN-18-AF-8271, in which, the deceased was riding.

2.According to the claimants, it was the rash and negligent driving of the lorry that caused the accident. Contending that the deceased was working as a Coolie and was earning Rs.700/- per day, the claimants sought for a compensation of Rs.30,00,000/-.



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3.The claim was resisted by the Insurance Company contending that the accident did not occurred in the manner suggested by the claimants and it was the deceased, who contributed to the accident by his own negligence. The compensation claimed was termed as excessive.

4.At trial, the wife of the deceased was examined as P.W.1 and one V.Srinivasalu, an eye-witness was examined as P.W.2. Exs.P1 to P10 were marked. Neither oral nor documentary evidence was let in on the side of the Insurance Company or the Insurer. The Tribunal, on the basis of the First Information Report that was filed as Ex.P1 concluded that it was the negligence on the part of the driver, of the lorry that caused the accident.

5.The Tribunal took the monthly notional income of the deceased at Rs.12,000/- per month, added 40% towards future prospectus and deducted 1/5 towards personal expenses. By applying a multiplier of 17, the Tribunal arrived at the total pecuniary loss at Rs.27,41,760/-. Considering the number of dependents, the Tribunal awarded a sum of Rs.2,40,000/- to the dependents towards loss of consortium. It also awarded a sum of Rs.15,000/- each towards loss of estate and funeral expenses. Thus, the total



compensation was arrived at Rs.30,11,760/- and the same was rounded off to Rs.30,11,800/-.

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6.Mr.G.Vasudevan, learned counsel for the appellant Insurance Company would vehemently contend that the quantum of compensation arrived at by the Tribunal is highly excessive. According to the learned counsel, once it is admitted that the deceased is a Coolie, the Tribunal ought not to have taken the notional income at Rs.12,000/- per month. The learned counsel would also contend that the Tribunal erred in concluding that the entire negligence is on the part of the lorry driver.

7.As regards the second contention of the learned counsel regarding negligence, we are unable to entertain the same, since there was total lack of evidence on the part of the Insurer and the Insurance Company before the Tribunal. As regards the quantum, we find that the Tribunal has fixed the income at Rs.12,000/- per month, which is very reasonable.

8.Another factor which impels us to confirm the award of the Tribunal is the total number of dependents. There are three minor children,



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who will have to be educated. Even the sum of Rs.30,00,000/-, which has now been awarded may not be sufficient. Hence, we do not see any reason to interfere with the award. This Civil Miscellaneous Appeal fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (R.K.M.,J.)
15.09.2023

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R.SUBRAMANIAN, J.
and
R.KALAIMATHI, J.

KKN

To:-

The Motor Accident Claims Tribunal,
III-Court of Small Causes,
Chennai.

C.M.A.No.2217 of 2023
and
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