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C.M.A.No.1393 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

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

C.M.A.No.1393 of 2023

and

C.M.P.No.13927 of 2023

The Oriental Insurance Co. Ltd.,
No.75, Krishnan Street, Tiruvannamalai Town,
Tiruvannamalai District.

...Appellant

Vs.

1.T.Kannan
2.K.Santha
3.Chellakutti
4.Valarmathi
5.Minor S.Deepalakshmi
represented by her mother

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 15.02.2023 passed in M.C.O.P.No.1231 of 2022 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Tiruvannamalai.

For Appellant : Mr.R.Sivakumar



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J U D G M E N T

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

Challenge at the instance of the Insurance Company is to the quantum of compensation awarded in M.C.O.P.No.1231 of 2022 on the file of the Motor Accident Claims Tribunal, Tiruvannamalai.

2.The claimants, who are the parents of the deceased Suresh Babu sought for compensation at Rs.1,00,00,000/- for the death of their son in an accident that took place on 09.07.2008. The wife and the minor daughter were impleaded as respondents 3 and 4 in the claim petition. According to the claimants, the accident occurred when the said Suresh Babu was proceeding on his two wheeler towards East to West, Tiruvannamalai to Gingee road, near Primary Health Centre, Kilpennathur, the lorry belonging to the 1st respondent bearing Registration No. TN-28-H-2568 driven by its driver in a rash and negligent manner came from behind and hit against the two wheeler. As a result of which, the deceased sustained fatal injuries and died on the same day.

3.According to the claimants, the deceased was earning not less



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than Rs.40,000/- per month and was contributing his income to the claimants also. The claimants quantified the loss at Rs.1,00,00,000/-. The Insurance Company while admitting the existence of the policy, disputed the quantum of compensation claimed and sought for dismissal of the petition.

4.The Tribunal, on the basis of the evidence that was made available to it, came to the conclusion that the accident occurred only due to the rash and negligent driving of the lorry by its driver. On the quantum, the Tribunal took Ex.P5, the appointment order issued by the ICICI Prudential Life Insurance Company offering a job to the deceased at an annual salary of Rs.1,75,344/-, which included medical reimbursement, EPF contributions, gratuity contributions etc.

5.The Tribunal, after making certain deductions, fixed the monthly income of the deceased at Rs.13,856/-. After adding 25% towards future prospects and deducting 25% towards personal expenses, fixed the monthly income at Rs.10,392/-. Considering the age of the deceased, i.e., 41, the Tribunal adopted a multiplier of 14 and arrived at the loss of



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dependency at Rs.21,82,320/-. The Tribunal, awarded a sum of Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.1,60,000/- for loss of consortium / loss of love and affection. In all, the Tribunal awarded a sum of Rs.23,72,320/- as compensation.

6.We have heard Mr.R.Sivakumar, learned counsel for the appellant / Insurance Company.

7.Mr.R.Sivakumar, learned counsel appearing for the appellant / Insurance Company would vehemently contend that the Tribunal should have made some more deductions as the salary reflected in Ex.P5 sought to include medical reimbursement and conveyance allowance. We are unable to agree with the contention made by the learned counsel for the appellant. On a over all view, we find that the income taken at Rs.13,856/- reflects a fair figure and we cannot go into these minuet details of his income more so, when the deceased had died even before he could take up the employment. Hence, we do not see any merit in this appeal. This Civil Miscellaneous Appeal therefore, fails and it is accordingly, dismissed. No



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costs. Consequently, connected miscellaneous petition is closed.

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(R.S.M.,J.) (R.K.M.,J.)
07.07.2023

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

Nuetral Citation : Yes/No

To:-

The Principal District Court,
Tiruvannamalai.



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

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