

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED : 12.10.2023****CORAM****THE HONOURABLE MR. JUSTICE M.DHANDAPANI****C.M.A.No.2782 of 2014****and****M.P.No.1 of 2015**

The Manager
Royal Sundaram Alliance Insurance Co. Ltd.,
Sorrento Buildings, No.6,
First Floor, Adayar, Chennai-20.

... Appellant

-VS-

1. P.Lakshmisudha
2. P.Geethika
3. P,Rameshamma
4. A.V.Mudaliyandan

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in MCOP.No.7 of 2011 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Tiruttani dated 03.07.2014.

For Appellant : Mr.S.M.Krishnamoorthy

For Respondents : Mr.Anand for RR1 to 3
M/s.Anand & Surya
R4 - Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the judgment and



decree made in MCOP.No.7 of 2011 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Tiruttani dated 03.07.2014.

2. It is the case of the appellant that on 20.07.2010 at about 7.40 pm. When the deceased was travelling as a passenger in the 4th respondent's bus bearing Registration No.AP 03 X 5005 was proceeding from Chittoor to Tiruttani, at the time, the driver drove the bus in a rash and negligent manner. As a result of which, the deceased Loganatha Reddy lost his control and fell down from the bus and sustained fatal injuries all over the body and died on the way to hospital. Therefore, the claimants have filed claim petition claiming compensation of Rs.15,00,000/-

3. During the trial before the Tribunal, on the side of the claimants, the PW1 and PW2 were examined and marked 9 documents viz., Exs.P1 to P6. On the side of the Insurance company, the one witness has been examined as RW1 and marked one document.

4. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition and awarded a sum of Rs.11,31,000/- as compensation to the claimants. Aggrieved by the award dated 03.07.2014, the appellant Insurance Company has filed this appeal before this Court.



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5. The learned counsel for the appellant submitted that the deceased was solely responsible for the accident as he negligently travelled on the foot board of the bus. The Tribunal ought to have fixed equal contributory negligence on the deceased. The learned counsel further submitted that the Tribunal erred in awarding excessive compensation for the death of the deceased who is aged more than 47 years, whose occupation and income has not been proved. The Tribunal erred in fixing the monthly income of the deceased who was allegedly running automobile spare part shop excessively at Rs.9,000/- without any authenticated document.

6. Per contra, the learned counsel appearing for the respondents/claimants contended that the deceased was running a Automobile spare parts shop and also owned a own auto and earned a sum of Rs.15,000/- per month and he is a only breadwinner of the family. However, the Tribunal has considered the issue in proper manner and awarded compensation under different heads which are reasonable and the same does not warrant interference.

7. Heard the learned counsel appearing for the appellant as well as the



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8. From the materials on record, it is seen that due to the injuries sustained by the deceased in the accident, he died. The Tribunal has adopted the correct multiplier method and correctly assessed the loss of income of the deceased. Based on the documentary evidence, the income was fixed at Rs.9000/- and Hence, the same does not require any interference by this Court. The amounts awarded towards other heads are also very reasonable and hence this Court is not inclined to interfere with the award passed by the Tribunal and the same is confirmed.

9. In view of the above, this Court do not find any error in the award dated 03.07.2014 passed by the Tribunal in M.C.O.P.No.7 of 2011 and there is no merit in the appeal and the same is liable to be dismissed.

10. Accordingly, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The Appellant/Insurance Company is directed to deposit the award amount along with accrued interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment.



the award amount, less the amount if any, already withdrawn, by filing necessary applications before the Tribunal. No costs. Consequently, connected miscellaneous petition is also closed.

12.10.2023

rli

Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

To

The Motor Accidents Claims Tribunal
(Subordinate Judge), Tiruttani



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M.DHANDAPANI.J.,

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C.M.A.No.2782 of 2009

12.10.2023