



C.M.A.No.388 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.388 of 2006

New India Assurance Co. Ltd.,
45, Moore Street
Chennai-1.

... Appellant

..Vs..

1.N.Saravanan
2.S.Lakshmi

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 21.02.2005 made in MCOP.No.945 of 2003, on the file of the Motor Accident Claims Tribunal / IV Judge, Court of Small Causes, Chennai.

For Appellant

: Mr.K.Vinod

For Respondents

: Mr.S.Vijayakumar for R1&R2

R3 - Given up



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J U D G M E N T

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This appeal has been filed by the Appellant/Insurance Company challenging the award dated 21.02.2005 passed by the the Motor Accident Claims Tribunal / IV Judge, Court of Small Causes, Chennai in MCOP.No.945 of 2003.

2. A person by named, Ramesh died on 30.09.2002 as a result of an accident caused by a vehicle insured with the Appellant. The respondents/claimants are father and mother of the deceased. They preferred a claim before the Motor Accident Claims Tribunal in MCOP No.945 of 2003 seeking compensation for the death of Ramesh.

3. The Motor Accident Clams Tribunal, under the impugned award directed the Insurance Company to pay the claimants, a compensation of Rs.5,85,000/- together with interest and costs as detailed hereunder:



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<i>Heads</i>	<i>Award Amount (Rs.)</i>
Loss of Income	5,25,000/-
Funeral Expenses	10,000/-
Loss of love and affection and mental agony	50,000/-
Total	5,85,000/-

4. The Appellant/Insurance Company has filed this appeal on the ground that the compensation awarded by the Tribunal is excessive.

5. Before the Tribunal, the claimants have filed 12 documents which were marked as Ex.P1 to Ex.P12 and two witnesses were examined on their side namely, the first claimant himself as PW1 and an eye witness to the accident as PW2. On the side of the Appellant/Insurance Company, neither any document was filed nor any witness was examined.

6. The learned counsel appearing on behalf of the appellant/Insurance Company mainly contended that the quantum of compensation granted by the Tribunal is exorbitant. The Tribunal has erred in fixing the monthly income of the deceased as Rs.5000/- without any basis. The multiplier



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adopted by the Tribunal is not correct. The compensation granted towards loss of love and affection, mental agony and funeral expenses are on the higher side and based on that, the appellant/Insurance Company has chosen to file the present appeal. For the aforesaid reasons, the award is liable to be dismissed.

7. The learned counsel for the 1st respondent/claimant disputed the said contention by stating that considering the grievousness of the injuries, the Tribunal awarded the compensation and there is no excessive award and accordingly, the appeal is liable to be dismissed.

8. Insofar as the quantum of compensation awarded by the Tribunal is concerned, this Court has perused the pleadings and evidence adduced by the respective parties. In the claim petition, the respondents/claimants have claimed that the deceased was aged 29 years and was doing business and was earning Rs.10,000/- per month. But, no proof of income has been filed. However, on perusal of Ex.P10 and Ex.P11, would reveal that the deceased was selected to the post of Grade II Constable and his basic pay was fixed



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as Rs.2,750/- and if he would have joined duty, he could have earned atleast Rs.5000/- per month. Considering the said factors, the Tribunal has rightly assessed the monthly income of the deceased at the time of the accident as Rs.5000/-. Therefore, there is no scope for interference with regard to the said assessment. Since the deceased was a bachelor, the Tribunal has rightly applied the correct multiplier considering the age of the mother of the deceased and also rightly deducted 1/3rd towards personal expenses of the deceased. Taking an overall view, this Court is of the considered view that the compensation awarded by the Tribunal is a just compensation and there is no scope for interference by this Court.

9. For the foregoing reasons, there is no merit in this appeal. Accordingly, this appeal is dismissed. The Appellant/Insurance Company is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited, if any to the credit of MCOP.No.945 of 2003 within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is



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directed to transfer the respective shares of award amount along with accrued interest to the bank accounts of the first and second respondents/claimants through RTGS within a period of two weeks thereafter. No costs.

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Index: Yes/No
Speaking/Non-speaking order
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To

1. The Motor Accident Claims Tribunal /
IV Judge, Court of Small Causes, Chennai.
2. The Section Officer
V.R.Section, High Court of Madras.



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A.A.NAKKIRAN, J.
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