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C.M.A.No.63 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No. 63 of 2023

T.Pauljosh (Since died)
1.Sivagami
2.Jenefermercy Carolina
3.Thirunavukarasu

...Appellants

Vs.

1.V.Pandiyan

2.The National Insurance Company Limited,
Motor TP Hub, Regina Mansion,
No.46, 3rd Floor, Moore Street,
Chennai- 600 001.

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree passed in M.C.O.P.No.2534 of 2016 dated 08.11.2019 on the file of Motor Accident Claims Tribunal, (V Small Causes Court), Chennai.

For Appellants : K.Varadha Kamaraj
For R-1 : No appearance
For R-2 : Mr.J.Chandran



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JUDGMENT

This appeal is filed challenging the Award and Decree passed in M.C.O.P.No.2534 of 2016 dated 08.11.2019 on the file of Motor Accident Claims Tribunal, (V Small Causes Court), Chennai.

2. The appeal is filed by the claimants seeking enhancement of compensation.

The claim petition is filed by the widow, daughter and the father of the deceased Pauljosh, who died in the motor accident which occurred on 26.01.2016, claiming a sum of Rs.1,00,00,000/- as compensation.

3. The accident, negligence and liability are not disputed. The only issue to be decided in the appeal is quantum of compensation to be paid to the appellants.

4. It is seen that the deceased was aged 62 years at the time of accident and was running a D.TP. xerox, Telecom and Stationery shop under the name and style of "Jeneffer Enterprises" and was earning Rs.20,000/- per month.



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5. Before the Claims Tribunal, PAN card, copy of Aadhar and Bank A/c pass book of the deceased were filed in support of the income of Rs.20,000/- per month. The Claims Tribunal assessed the income notionally at Rs.15,000/- per month and awarded Rs.8,40,000/- towards loss of dependency.

6. The only point raised by the learned counsel for the appellants is that the notional income fixed by the Claims Tribunal was very meagre and the same deserved to be enhanced or not.

7. The learned counsel for the 2nd respondent on the other hand, submits that the Award of the Claims Tribunal is just, fair and reasonable and did not call for any interference by this Court.

8. I have heard both the learned counsels and have perused the materials placed on record.

9. I find that, in the absence of any evidence like the license of the concerned Authority to run the shop, the Claims Tribunal rightly assessed the income at Rs.15,000/- per month and therefore the same is confirmed.



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10. The learned counsel for the appellants fairly submitted that the award towards various heads were reasonable and therefore the same are not disputed.

In the light of the above discussion, I am of the view that the appeal is devoid of merits and the same is dismissed. The impugned Award passed by the Claims Tribunal is confirmed. There shall be no order as to costs.

08.06.2023

dsn

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No



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To

1. The V Judge,
Motor Accidents Claims Tribunal,
Chennai.

2. The Section Officer,
V.R.Section,
High Court, Madras.



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N.MALA.J.,

dsn

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