



C.M.A.No.2907 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.A.No.2907 of 2022

and

C.M.P.No.22480 of 2022

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

...Appellant

Vs.

1.G.Mohana Priya
2.Minor G.Yashwanth
3.Minor G.Harshitha
4.Dhanalakshmi
(Minor 2 & 3 are represented by their
mother & NF G.Mohana Priya)

5.G.Janakiraman

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.4769 of 2016 dated 08.03.2021 on the file of the Motor Accident Claims Tribunal, Special Sub-Court No.1, Small Causes Court, Chennai.



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For Appellant : Mr.M.B.Raghavan for
Mr.M.B.Gopalan Associates

J U D G M E N T

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

Challenge by the Insurance Company is to the award of the Tribunal made in M.C.O.P.No.4769 of 2016, granting a sum of Rs.29,96,200/- as compensation for the death of one Ganesan @ Ganesh, who aged about 34 years in a motor accident that occurred on 20.09.2015.

2.According to the claimants, when the said Ganesan travelling as a pillion rider in a motor cycle bearing Registration No.TN-09-CA-7643 driven by his friend on G.N.T.Road near Kaavankarai Signal, the container lorry bearing Registration No.TN-28-AH-0690, which driven in a rash and negligent manner came from behind and hit the motor cycle. As result of the accident, the deceased Ganesan sustained severe injuries and died on the spot. Faulting the driver of the lorry for negligence and claiming that the said Ganesan was working in a Chit Fund Company earning about



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Rs.15,000/- per month, the claimants sought for a compensation of

Rs.30,00,000/-.

3.The Insurance Company resisted the claim contending that the accident did not happen in the manner suggested by the claimants. According to the Insurance Company, the driver of the two wheeler was responsible for the accident. It is also contended that the quantum of compensation claimed is on the higher side.

4.Before the Tribunal, P.W.1, the 1st petitioner, and P.W.2 an eye witness were examined. Exs.P1 to P17 were marked. The Insurance Company did not let in either oral or documentary evidence. The Tribunal, on the basis of the First Information Report lodged, concluded that the driver of the lorry was responsible for the accident.

5.As regards the quantum, the Tribunal relied upon Exs.P12 and P15, the bank statement and pay slip for the month of August, 2015, which revealed that the deceased was earning about Rs.13,870/- per month. The



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Tribunal took that amount as the monthly loss of dependency, added 40% towards future prospects, deducted $\frac{1}{4}$ towards personal expenses, applied the multiplier of 16 and arrived at the total loss of dependency at Rs.27,96,192/-. It also awarded a sum of Rs.40,000/- to the 1st petitioner for loss of consortium, Rs.1,25,000/- to the petitioners 2 to 4 towards loss of love and affection, , Rs.15,000/- towards loss of estate and Rs.5,000/- towards transportation, apart from granting Rs.15,000/- towards funeral expenses. In all, the Tribunal awarded of a sum of Rs.29,96,200/- as compensation.

6.Mr.M.B.Raghavan, learned counsel appearing for the Insurance Company would submit that the Tribunal ought not to have taken the monthly income as Rs.13,870/-, since the previous pay slips were not produced. We do not think such a contention could be accepted particularly, when pay slip is supported by the bank statement. In any event, we find that fixation of Rs.13,870/- for a commerce graduate in the year 2015 cannot be said to be on the higher side. Even a last grade servant was earning more than that amount during the relevant point of time.



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7.This Civil Miscellaneous Appeal therefore, fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (S.S.K.,J.)
04.01.2023

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Internet:Yes

Index:No

Speaking

To:-

The Motor Accident Claims Tribunal,
Special Sub-Court No.1,
Small Causes Court, Chennai.



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