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C.M.A.No.1799 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2023

CORAM:

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

C.M.A.No.1799 of 2023
and
C.M.P.No.17602 of 2203

The Branch Manager,
The Oriental Insurance Company Ltd.,
Branch Office,
Siva Complex, II-Floor,
No.22-C, Saradha College Main Road,
Salem District.

...Appellant

Vs.

1.Rasiya

Chinnathambi (died)

2.Elanchezhian

3.S.Khandha Bharathi

...Respondents

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in MCOP.No.320 of 2009 dated 24.06.2014 on the file of the Motor Accident Claims Tribunal, Sub-ordinate Judge, Harur.



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For Appellant : Mr.M.J.Vijayaraghavan

For Respondents :Mr.M.Sivakumar for R1 & R2

J U D G M E N T

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

The Insurance Company is on appeal. Challenge is to the quantum of compensation awarded at Rs.31,30,000/- for the death of one Elango in a road accident that occurred on 08.07.2008.

2.According to the claimants, who are the parents and brother of the deceased, on 08.07.2008, when the deceased was travelling in a Tata Seira car bearing Registration No.TN-38-E-1456 on the way to Madurai on the Salem-Karur bye-pass road at around 6 a.m, the driver of the car drove the car in a rash and negligent manner and dashed against the bridge. As a result of the accident, the deceased was trapped inside the car and sustained greivous injuries. He died on the way to Hospital. Terming negligence on the part of the driver of the car as a cause of the accident, the claimants sought for compensation at Rs.50,00,000/-. Though the claimants estimated the compensation at Rs.1,79,25,000/-, they restricted their claim to



Rs.50,00,000/-. The quantum was supported, by contending that the deceased was earning about Rs.30,000/- per month.

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3.The Insurance Company resisted the claim contending that the accident did not occurred in the manner suggested by the claimants. It was claimed that the vehicle did not have the valid insurance and the negligence pleaded by the claimants was denied. The Insurance Company contended that it is not liable to pay the compensation since the driver was not having a valid driving license,.

4.At trial, the 1st petitioner and one C.K.Ramu were examined as P.W1 and P.W.2. Exs.P1 to P12 were marked. Neither oral nor documentary evidence was produced on the side of the Insurance Company. The owner of the vehicle remained exparte. On a consideration of the evidence on record, the Tribunal took the monthly income at Rs.30,000/- per month, deducted 50% towards personal expenses and fixed the monthly loss of income at Rs.15,000/-. Applying multiplier of 17 as the deceased was aged 27 years, the Tribunal arrived at the total monetary loss at Rs.30,60,000/-. It added a sum of Rs.50,000/- towards loss of love and



affection to the 3rd petitioner and Rs.20,000/- towards funeral expenses.

Thus, the total compensation worked to Rs.31,30,000/-. The Tribunal also directed payment of interest at 7.5% per annum. Aggrieved, the Insurance Company is on appeal.

5.We have heard Mr.M.J.Vijayaraghavan, learned counsel for the appellant and Mr.M.Sivakumar, learned counsel for the respondents/claimants.

6.Mr.M.J.Vijayaraghavan, learned counsel for the appellant / Insurance Company would vehemently contend that there was no basis on fixation of monthly income at Rs.30,000/-. The accident having occurred in the year 2008, according to the learned counsel, the fixation of monthly income at Rs.30,000/- is on the higher side. The finding of the Tribunal on the question of negligence is not subject matter of challenge in the appeal. We have considered the evidence on record.

7.It is seen that the deceased was the Managing Director of a Software Company and the salary certificate that was issued by the said



Company was produced as Ex.P8. In the absence of contra evidence, the

Tribunal believed the document and fixed the monthly income at Rs.30,000/-

. The Tribunal has not added anything towards future prospects and it has not awarded any amount towards loss of love and affection for the mother.

8.Even assuming that the monthly income, which has been taken at Rs.30,000/- could be said to be on the higher side, the absence of any addition for future prospects makes the compensation just and reasonable. Since the total award amount is reasonable, we do not see any reason to interfere with the award. This Civil Miscellaneous Appeal therefore, fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (R.K.M.,J.)
01.09.2023

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C.M.A.No.1799 of 2

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

KKN

To:-

The Motor Accident Claims Tribunal,
Sub-ordinate Court,
Harur.

C.M.A.No.1799 of 2023
and
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