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CMA.Nos.122 & 123 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CMA.Nos.122 & 123 of 2023
and CMP.Nos.1103 & 1105 of 2023

The Branch Manager,
United India Insurance Co.Ltd.,
No.35-J, MBT Road, Gandhi Chowk,
Ranipet – 632 401.

..Appellant in both appeals

Vs

1.Parvathi
2.Mangamma
3.Nagaraj
4.Vanisree
5.Minor. Melamma
6.Minor.Rajamma
7.Minor.Jayakumar

..Respondents in CMA.No.122 of 2023

1.Vanisree
2.Minor. Pavani
3.Minor. Thirumala
4.Sakkamma

..Respondents in CMA.No.123 of 2023

Common prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside judgment and decree dated 12.08.2015 made in MCOP.Nos.811 and 813 of 2013 on the file of the MACT (Additional District Judge), Krishnagiri.



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(In both the appeals)

For Appellant : Ms.I.Malar

COMMON JUDGMENT

The Civil Miscellaneous Appeals have been filed as against the judgment and decree dated 12.08.2015 made in MCOP.Nos.811 and 813 of 2013 on the file of the MACT (Additional District Judge), Krishnagiri.

2. Both the claim petitions have been filed as against the same accident.

3. The case of the claimants is that on 10.05.2013, while both the deceased were travelling in an auto bearing Reg.No.AP-03-TC-1577 proceeding in the KGF-Kuppam Road, after crossing the Kaliganoor bus stop near by the fields of Srinivasalu Reddy Tomato crop, at about 11.15 a.m, a bus bearing Reg.No.AP-03-TB-2399 belonging to the first respondent and insured with the second respondent and its driver drove the bus in a rash and negligent manner and also in high speed and also without observing the traffic rules and dashed against the auto on the opposite direction. Due to the said accident, the auto fell down on the road and both the deceased sustained grievous injuries and died on the spot. The deceased in MCOP.No.811 of 2013 was an agriculturist, doing all



kinds of seasonal business and he was aged about 48 years at the time of accident. He was the sole bread winner of his family. The first claimant is the wife and other claimants are the children of the deceased.

4. Admittedly, only because of the rash and negligent driving of the bus owned by the first respondent herein, the accident had taken place in which, two persons sustained grievous injuries and died. Further, the claimants failed to prove any proof of income of the deceased and as such, the Tribunal had fixed the notional income at Rs.250/- per day and adopted multiplier method of 13. The Tribunal had fixed Rs.9,75,000/- for loss of dependency and awarded a sum of Rs.1,50,000/- for loss of love and affection. Totally a sum of Rs.11,90,000/- has been awarded and it is just a reasonable one.

5. In so far as, the claimants in MCOP.No.813 of 2013 is concerned, the deceased in that case was aged about 30 years at the time of accident and he was working in a rice mill and was earning a sum of Rs.20,000/- per month. However, the claimants failed to prove his income though any material evidence. Considering the age and nature of work, the Tribunal fixed the income of the deceased as Rs.400/- per day and applied the multiplier method of 17 and awarded a sum of Rs.18,36,000/- for loss of dependency and also rightly



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awarded a sum of Rs.75,000/- for loss of love and affection and totally awarded

a sum of Rs.19,76,000/- as compensation and it is just a fair compensation.

Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

6. Accordingly, these civil miscellaneous appeals stand dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

25.01.2023

Speaking/Non-speaking order

Index : Yes/No

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To

MACT (Additional District Judge),
Krishnagiri.



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G.K.ILANTHIRAIYAN.J.

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