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C.M.A. (MD)No.979 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.M.A.(MD)No.979 of 2023

1.Kamarudheen

2.Vino

...Appellants/Petitioners

Vs.

1.Chellappa

2.Royal Sundaram General Insurance Company Ltd.,

Through its Branch Manager,

Office at No.137, First Floor,

Ramani Krishna Marvel,

Diwan Bahadur Road,

R.S.Puram West,

Coimbatore-641 002.

...Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 29.08.2022 and made in M.C.O.P.No.103 of 2021 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Tirunelveli insofar as awarding lesser quantum of compensation by the Tribunal.



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For Appellant : Mr.K.Muthu Ganesa Pandian

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JUDGMENT

[Judgment of the Court was delivered by ***RMT.TEEKAA RAMAN, J***]

This Civil Miscellaneous Appeal has been filed seeking to set aside the award and decree made in M.C.O.P.No.103 of 2021 dated 29.08.2022 by the Motor Accident Claims Tribunal (Principal District Court), Tirunelveli.

2.For the sake of convenience, the parties are referred to herein, as per their rank before the Trial Court.

3.On 01.03.2020, when the deceased was walking near Gangaikondan along with one Prema in the left side of the road, a car bearing Registration No.TN 39 BE 1675 belonging to the first respondent came in a rash and negligent manner and hit the deceased and the said Prema. Due to the same, the deceased and Prema were thrown away and they sustained injuries. The deceased was taken to the hospital and on the way to the hospital, she died. The petitioners are the parents of the deceased. The deceased was aged about 7 years at the time of accident. Hence, the claim petition was filed by the parents of the deceased.



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4. Before the Tribunal on the side of the claimants P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P7 were marked and on the side of the respondents no oral and documentary evidence have been adduced.

5. The stand of the respondents before the Tribunal is that the first respondent has driven the car in a cautious manner and only the deceased was responsible for the accident.

6. Considering the factual aspects and the evidence adduced, the Tribunal has fixed the following compensation with interest at the rate of 7.5% per annum:

S.No	Heads	Amount
1.	Penury Loss	Rs.4,50,000/-
2.	Loss of estate	Rs. 15,000/-
3.	Funeral expenses	Rs. 15,000/-
4.	Loss of love and affection for petitioners 1 and 2 each Rs.10,000/-	Rs. 20,000/-
5.	Transport Expenses	Rs. 10,000/-
	Total	Rs.5,10,000/-

Challenging the same, the present Civil Miscellaneous Appeal has been filed by the claimants.



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7. I have heard the learned counsel appearing on either side and perused the entire materials placed on record.

8. Admittedly, the deceased was 7 years old at the time of accident. Hence, the Tribunal considering the age of the deceased had fixed the notional income of the deceased at Rs.30,000/- per annum and adopted the multiplier '15'. Further, the Tribunal had awarded a sum of Rs.15,000/- towards loss of estate and Rs.20,000/- towards love and affection. The Tribunal also awarded a sum of v Rs.10,000/- towards transport expenses and a sum of Rs.15,000/- towards funeral expenses.

9. On perusal of the entire award, it is made clear that the Tribunal has rightly assessed the oral and documentary evidence and arrived at the just and reasonable compensation. Such view of the matter, We find no merits in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed.

10. The Insurance Company is directed to deposit the entire compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.103 of 2021, on the file of the Motor Accident Claims



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Tribunal / Principal District Court, Tirunelveli within a period of one month from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimants are permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs.

[T.K.R.,J.] & [P.B.B.,J.]

11.10.2023

Index : Yes/No

Internet : Yes/No

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**RMT. TEEKAA RAMAN,J.
AND
P.B. BALAJI, J.**

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To

1.The Motor Accident Claims Tribunal,
Principal District Court, Tirunelveli.

Copy to

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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