



C.M.A.(MD).No.421 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.421 of 2020

M/s. Royal Sundaram General Insurance Company Ltd.,
Door No.2/319, Visaranthi Melaram Towers,
Rajiv Gandhi Road, OMR,
Karapakkam,
Chennai – 600 097,
Represented by its Divisional Manager. Appellant/Petitioner

-VS-

1. Palanisamy
2. Latchumi
3. Khan Abdul Khabarkhan ... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decretal order dated 30.10.2019, made in M.C.O.P.No.485 of 2018 on the file of the Motor Vehicles Accidents Claims Tribunal, Special District Judge, Thanjavur.

For Appellant : Mr.M.Jerin Mathew

For Respondents : Mr.G.Karnan – for R1 and R2
: No appearance – for R3



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The present appeal has been filed by the Insurance Company challenging the award of the Tribunal in M.C.O.P.No.485 of 2018 on the file of the Motor Vehicles Accidents Claims Tribunal/Special District Judge, Thanjavur, primarily on the ground of quantum.

2. According to the claimants, the deceased was aged about 26 years and he was working as a driver in JCB Poclain and he was drawing a salary of Rs.25,000/- (Rupees Twenty Five Thousand only) and hence the claimants have sought for a sum of Rs.30,00,000/- (Rupees Thirty Lakhs only) towards compensation.

3. The claimants have examined the first claimant, who is the father of the deceased as P.W.1 and one Rajarajan who is the complainant in the FIR as P.W.2 and one Palraj who is the Manager of the Company, in which, the deceased was working as P.W.3. The claimants have marked Ex.P4, which is the driving license of the deceased person and the claimants have also produced Ex.P.17, which is the Salary Certificate issued by the employer.



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4. Based upon these documents, the Tribunal, arrived at a finding that the deceased was earning a sum of Rs.18,000/- (Rupees Eighteen Thousand only) in which, 40% was added towards future prospectus. Being the deceased was a bachelor, 50% of the monthly income was deducted and applying multiplier of “17”. The total compensation was arrived at Rs. 25,70,400/- (Rupees Twenty Five Lakhs Seventy Thousand and Four Hundred only) towards loss of income. The Tribunal has awarded a sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards funeral expenses, a sum of Rs. 15,000/- (Rupees Fifteen Thousand only) towards loss of estate, and has deducted a sum of Rs.5,92,620/- (Rupees Five Lakhs Ninety Two Thousand Six Hundred and Twenty only) towards income Tax and finally a sum of Rs. 20,07,780/-(Rupees Twenty Lakhs Seven Thousand Seven Hundred and Eighty only) was awarded as compensation. The award of the said amount will carry interest at the rate of 7.5% per annum from the date of claim petition. This award is under challenge in the present appeal.



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5. According to the learned counsel appearing for the appellant, no records have been placed before the Tribunal, whether the deceased was really working as a driver in JCB Poclain. The mere examination of the Manager of the organization as P.W.3 and marking salary certificate Ex.P.17, would not prove that the deceased was working as a JCB driver and he was drawing a salary of Rs.30,000/- (Rupees Thirty Thousand only) as claimed by the claimants. He further contended that the Tribunal ought not to have taken into consideration, a sum of Rs.18,000/- (Rupees Eighteen Thousand only) towards monthly salary, when absolutely there is no proof for the same.

6. Per contra, the learned counsel appearing for the respondents 1 and 2 contended that the Court has taken judiciary notice of the fact that the JCB driver was drawing a salary as a heavy vehicle driver. He further contended that they have produced Ex.P.4- driving license and Ex.P.-17 Salary Certificate and the claimants have also examined the Manager of the Company as P.W.3. Therefore, he further contended that though the deceased was earning a sum of Rs.30,000/- per month, the Tribunal is of the



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view that he was earning only a monthly income of Rs.18,000/- (Rupees Eighteen Thousand only) the same may not be disturbed.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the records.

8. According to the claimants, the deceased was working as a JCB driver and earning a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) and on the side of the deceased heavy vehicle driving license has been marked as Ex.P.4, the Salary Certificate of the deceased was marked as Ex.P.17, and the Manager of the Company was examined as P.W.3.

9. According to the salary certificate Ex.P.17, the deceased was earning a sum of Rs.30,000/- per month. However, the Tribunal has reduced the said amount to Rs.18,000/- and fixed notional monthly income at Rs.18,000/- (Rupees Eighteen Thousand only).

10. Considering the fact that the deceased was a JCB driver and the Tribunal has taken only Rs.18,000/- (Rupees Eighteen Thousand only) as



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monthly income, this Court does not find any reason to interfere with the quantum of award. Accordingly, this Civil Miscellaneous Appeal stands dismissed. The claimants are entitled to approach the Tribunal for withdrawing the balance amount by filing appropriate application. There shall be no order as to costs.

20.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accidents Claims Tribunal/
Special District Judge, Thanjavur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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