



C.M.A(MD)No.1130 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.02.2023

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THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A(MD)No.1130 of 2021

The Divisional Manager,
ICICI Lombard General Insurance Company Limited,
Plot No.5, AA Towers, Nothern Side, 1st Floor,
Bypoass Road, SS Colony, Madurai.

... Appellant/2nd Respondent.

Vs

1.Selvi

2.Rajkumar

3.Anitha

4.Murukesh

... Respondents 1 to 4 / Claimants 1 to 4

5.Anitha

... 5th Respondent/1st Respondent

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, to call for the records pertaining to the fair and decreetal order passed by the Motor Accidents Claims Tribunal (Fast Track Mahila Court), Sivagangai, in MCOP.No.195 of 2019 dated 08.07.2021, set aside the same by allowing the appeal.

For Appellant : Mr.P.Pethu Rajesh

For R1 To R4 : Mr.N.Madhava Govindan



JUDGMENT

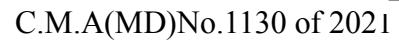
The appeal is filed by the Insurance Company challenging the award dated 08.07.2021, passed in M.C.O.P.No.195 of 2019, on the file of the Motor Accidents Claims Tribunal, (Fast Track Mahila Court), Sivagangai.

2.The brief facts necessary for the disposal of the appeal are as follows:-

On 13.07.2019, the deceased Selvam, was proceeding in his two wheeler on Thondi – Madurai Highway, whileso, the Hundai Xcent Car bearing Reg.No.TN-63-AM-9192, which was being driven in a rash and negligence manner by its driver hit against the two wheeler, as a result, the said Selvam died.

3.The legal heirs of the deceased filed a claim petition claiming a sum of Rs.20 lakhs as compensation. According to the claimant, the deceased was running a Stone Metal Workshop at Kalaiyarkovil and earning a sum of Rs.30,000/- per month.

4.The second respondent, Insurance Company filed a counter denying all the averments in the claim petition apart from specifically denying the negligence, liability and the quantum of compensation claimed before the Tribunal.



6. The Tribunal on an assessment of the evidence on record held that the accident occurred only due to the rash and negligent driving of the first respondent and assessed the compensation at Rs.23,75,000/-, but, as the claimants restricted their claim to Rs.20 lakhs, the Tribunal awarded Rs.20 lakhs @ 7.5%. Aggrieved by the award of the Tribunal, the Insurance Company has filed this present appeal.

7. The only issue raised by the learned counsel for the appellant is the quantum of compensation awarded by the Tribunal. According to the counsel, the Tribunal had erred in fixing the notional income at Rs.18,000/- per month. Even though no evidence was filed by the claimants in support of the income of the deceased, the Tribunal, based on Ex.P.16, the photograph of Flex Sign Board displayed in front of Stone Metal Workshop, which contains the phone number of deceased Selvam, fixed the daily income of the deceased at Rs.600/- per day. It is seen that the deceased was aged about 50 years at the time of the accident and he was maintaining a family of 4 members. The



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deceased left behind 2 sons and a daughter of marriageable age. It is not disputed that the deceased was running a Stone Metal Workshop and was engaged in stone carving, which is highly skilled job. Therefore, I am of the view that the notional income of Rs.13,500/- fixed by the Tribunal is fair. Considering the age of the deceased, the number of members of the family and the skilled nature of work of the deceased, I find no reason to interfere with the income fixed by the Tribunal. I am therefore of the view that the award of the Tribunal is reasonable, fair and justifiable and no interference is called for in this appeal.

8. Accordingly, the appeal is dismissed. There shall be no order as to costs.

03.02.2023

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

- 1.The Motor Accidents Claims Tribunal
(Fast Track Mahila Court), Sivagangai,
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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N.MALA, J

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