



CMA(MD)No.1215 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

CMA(MD).No.1215 of 2022

1.Mohanambal
2.K.Senthikumar
3.K.Ramesh
4.K.Devi

Appellants/ Respondents 3 to 6

vs.

1.Rajaselvi @ Selvi
2.Minor Sudharsan
3.Minor Niranjini
(minor petitioners 2 and 3 are
rep. by their natural guardian, next friend
mother Rajaselvi @ Selvi)
4.A.M.G. Vijayakumar
5.The Divisional Manager,
M/s. Oriental Insurance Company Ltd.,
No.4, Bharathidasan Road,
Cantonment,
Trichy.
(4th respondent set ex parte before the
Tribunal, hence, the 4th respondent may be
dispensed with)

Respondents

PRAYER:- This Civil Miscellaneous Appeal filed under Section 173 of



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Motor Vehicles Act to set aside the Judgment and decree in pursuant to the proportionate ratio awarded in MCOP.No.1273 of 2011 on the file of the Motor Accident Claims Tribunal – Cum – I Additional District Judge (PCR), Trichy and grant benefit in equal ration in the awarded amount.

For Appellants : Mr. N. Sudhagar Nagaraj

For R1 to R3 : Mr.A. Azhagesan

For 5th respondent : Mr. A. Ilango

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the mother, brothers and sisters of the deceased seeking re-fixation of apportionment fixed by the Tribunal in the Award, dated 18.04.2018 made in MCOP.No. 1273 of 2011 on the file of the Motor Accident Claims Tribunal – Cum – I Additional District Judge (PCR), Triuchirappalli.

2. The learned counsel appearing for the appellants submits that as far as the appellants 2 to 4 are concerned the Tribunal rejected their claim for compensation and awarded a sum of Rs.1,50,000/-, out of the



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award amount of Rs.15,80,000/- to the first appellant alone. It is submitted that the mother of the deceased is aged about 74 years and she was dependant on the deceased, who was the only breadwinner of the family. It is further submitted that the appellants 2 to 4 do not have a permanent job and hence, not able to take care of the first appellant. The counsel therefore submitted that considering the advanced age of the first appellant and also the inability of the other appellants to take care of her, the compensation awarded by the Tribunal at Rs.1,50,000/- may be reasonably enhanced.

3. The learned counsel appearing for the respondents 1 to 3 submits that the 1st appellant, mother of the deceased, is receiving pension and therefore, there is no justification for increasing the apportionment in her favour. He further admits that though the first respondent has remarried, her husband is disabled and the income out of the petty shop run by him is insufficient and therefore, prays for dismissal of the appeal.

4. I have heard the learned counsel appearing for both sides and perused the materials on record.



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5. As the respondent has not disputed the other aspects like negligence and liability, the short point to be decided in this appeal is whether the mother of the deceased is entitled to enhancement of her share in the award amount. The tribunal has awarded a sum of Rs.15,80,000/- as compensation and apportioned the same at Rs.8,30,000/- for the first respondent; Rs.3,00,000/- each for the respondents 2 and 3 and Rs.1,50,000/- to the mother of the deceased.

6. Considering the age of the first appellant and also considering the fact that the appellants 2 to 4 do not have a permanent job, I am of the view that a sum of Rs.80,000/- may be enhanced towards the share of the first appellant.

7. In the light of the above, I am of the view that the apportionment of compensation in favour of the first appellant should be refixed at Rs.2,30,000/-. The award of the Tribunal is modified and it is directed that the out of the award amount of Rs.15,80,000/-, the first respondent shall be entitled to a sum of Rs.7,50,000/- ; the respondents 2 and 3 shall be entitled to a sum of Rs.3,00,000/- each and the first appellant shall be entitled to Rs.2,30,000/-. As regards the appellants



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2 to 4, this appeal is dismissed.

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8. In the result, the Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

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Index : Yes/No
Internet : Yes/No
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To

The Motor Accident Claims Tribunal – Cum –
I Additional District Judge (PCR), Trichy



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N. MALA, J.,

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