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C.M.A(MD)No.286 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.10.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**C.M.A(MD)No.286 of 2021
and
C.M.P(MD)No.9185 of 2021
and
C.M.P(MD)No.2411 of 2021**

IFFCO TOKIO General Insurance Company Ltd.,
819/1, Second Floor,
Kingston Park,
Ramalinga Nagar,
Trichirappalli.

...Appellant/Respondent No.2

.vs.

1.J.Dhanalakshmi
2.K.Jeyabal
3.R.Loganathan

... Respondent Nos.1 & 2/
Petitioners
...Respondent No.3/
Respondent No.1

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the order dated 27.06.2019 passed in M.C.O.P.No.553 of 2013 on the file of the Motor Accident Claims Tribunal (Special District Judge) at Thiruchirapalli insofar as quantum of compensation awarded.



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For Appellant
For Respondents

:Mr.V.Sakthivel
:No appearance

JUDGMENT

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

This Civil Miscellaneous Appeal is directed against the judgement and award made in M.C.O.P.No.553 of 2013, dated 27.06.2019, on the file of the Motor Accident Claims Tribunal (Special District Judge) at Thiruchirapalli and to set aside the judgment and award.

2. The Insurance Company is the appellant herein. The respondents 1 & 2 filed a claim petition in M.C.O.P.No.553 of 2013 before the Motor Accident Claims Tribunal (Special District Judge) at Tiruchirapalli claiming compensation of Rs.30,00,000/- for the death of the petitioners son namely Chandrasekar in the road transport accident on 05.05.2006.

3. The case of the claim petitioners before the tribunal is that while their only son was riding two-wheeler bearing Registration No.TN-45-AA 6888, the offending vehicle a light goods motor



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vehicle bearing Registration No.TN-22-B-3877 was driven by its driver in a rash and negligent manner and dashed against the said Chandrasekar. Due to the impact, he sustained injury and subsequently, succumbed to the injuries and he was an engineer by qualification and hence, they sought for compensation.

4. The Insurance Company filed counter statement admitting the coverage of policy, however, disputed the manner of accident.

5. During trial, the first claim petitioner was examined as P.W.1 and occurrence witness was examined as P.W.2 and marked Ex.P1 to Ex.P14. On behalf of the respondents, no oral and documentary evidence marked.

6. Based upon the oral and documentary evidence, the triabunal has come to the conclusion that the accident had taken place due to the rash and negligent driving of the van, which was insured with the appellant/insurance company and also observed that there was no evidence available on record that the deceased had drove the vehicle with a high speed or in a rash and negligent manner and dashed against the goods vehicle. Based upon Ex.P1



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FIR, Ex.P6 rough sketch, the tribunal has rightly come to the conclusion that the accident had taken place due to the rash and negligent driving by the driver of the goods vehicle insured with the appellant and the said finding appears to be just and fair and hence, there is no interference.

7. On the point of quantum of compensation, we find that the tribunal has taken notional income of the deceased at Rs.5,000/- and for a bachelor 50% was deducted towards future prospects and multiplier '18' was adopted, are just and reasonable.

8. Hence, both the point of negligence and quantum of compensation, we find that the award passed by the tribunal is just and reasonable, does not require any interference.

9. Accordingly, this Civil Miscellaneous Appeal is dismissed and the judgment and award passed by the Motor Accident Claims Tribunal (Special District Judge) Tiruchirapalli in M.C.O.P.No.553 of 2023, dated 27.06.2019 is confirmed. The appellant Insurance Company is directed to deposit the award amount with proportionate accrued interest and costs, less the award amount



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already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are entitled to withdraw their share amount as apportioned by the tribunal along with proportionate accrued interest and cost, less the amount already withdrawn, if any. No costs. Consequently, connected miscellaneous petitions are closed.

[T.K.R.,J.] [P.B.B.,J.]
13.10.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
am

To

The Motor Accident Claims Tribunal
(Special District Judge) at Thiruchirapalli



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C.M.A(MD)No.286 of 2021

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

am

JUDGMENT MADE IN
C.M.A(MD)No.286 of 2021

13.10.2023