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CMA.No.1723 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1723 of 2024 and
C.M.P.No.13743 of 2024

The Divisional Manager,
M/s.New India Assurance Company Limited,
No.42, Bug Street, Vasavi Buildings,
Second Floor, Tiruvannamalai 606 601,
Tiruvannamalai District.

... Appellant

vs.

1. Kuppu
2. Raman
3. Venkatesan

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award, dated 07.02.2023 in M.C.O.P.976/2022 on the file of the Motor Accident Claims Tribunal, Additional District Court, Tiruvannamalai.

For Appellant : Mr.J.Michael Visuvasam
For R1 and R2 : Mr.S.T.Raja

J U D G M E N T

Questioning the quantum of compensation awarded by the Motor Accident Claims Tribunal, Tiruvannamalai in M.C.O.P.976/2022,



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the present appeal is filed by the appellant, the New India Assurance Company Limited, Tiruvannamalai.

2. The claimants / respondents 1 and 2 filed a claim petition under Section 166 (1) of Motor Vehicles Act, in M.C.O.P.976/2022 before the Motor Accident Claims Tribunal, Additional District Court, Tiruvannamalai, seeking compensation of Rs.20,00,000/- for the death of their daughter Rajeswari in a road accident that occurred on 31.07.2019.

3. The brief case of the claimants is as follows :

On 31.07.2019, Rajeswari (deceased) was travelling as a Pillion rider in a two wheeler bearing Registration number TN 25 BK 8398 on Tiruvannamalai - Tindivanam main road. When she was nearing Kilpennathur, the rider of the two wheeler suddenly applied brake to avoid hitting a dog that crossed the road, as a result of which, Rajeswari fell down and sustained injuries. She was immediately rushed to Government Hospital, Tiruvannamalai from where she was referred to Rajiv Gandhi Government Hospital, Chennai. However, she succumbed to injuries on 04.08.2019.



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4. According to the claimants, the rash and negligent driving of the driver of the two wheeler bearing Registration number TN 25 BK 8398 was the cause of the accident and that since the owner of the two wheeler had insured his vehicle with the appellant, the New India Assurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

5. In the Tribunal, the owner of the two wheeler remained absent and was set *ex parte*. The appellant, Insurance Company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

6. The Tribunal after analysing the evidence on record, fastened negligence on the part of the rider of the two wheeler bearing Registration Number TN 25 BK 8398 and directed the second respondent Insurance Company to pay compensation of Rs.19,34,400/- to the claimants together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation, vide its orders dated 07.02.2023. The Tribunal also held that the liability of the owner and the insurer is joint and several.



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7. Aggrieved over the quantum of compensation awarded by the Tribunal, the present appeal is filed by the appellant / the New India Assurance Company Limited under Section 173 of the Motor Vehicles Act.

8. Heard Mr.J.Michael Visuvasam, learned counsel for the appellant, Insurance Company and Mr.S.T.Raja, learned counsel for the respondents 1 and 2, claimants.

9. Mr.J.Michael Visuvasam, learned counsel for the appellant / Insurance Company contended that the claimants 1 and 2 are the parents of the deceased Rajeswari who was already married. In the absence of satisfactory proof that the parents of Rajeswari were depending on her income, the Tribunal was wrong in awarding compensation to them.

10. Per contra, Mr.S.T.Raja, learned counsel appearing for the claimants contended that the Tribunal after analysing the evidence on record, awarded compensation to the claimants and therefore there is no need for this Court to interfere with the same.



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11. In the instant case, the deceased happened to be a married lady and her parents are the claimants. Merely because the deceased was residing with her husband, it cannot be stated that her parents were not depending on the income of their daughter. In the circumstances, the Award passed by the Tribunal cannot be found fault with. The Tribunal has also followed the dictum laid down by the Hon'ble Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in *(2009) 6 SCC 121* while awarding compensation to the claimants.

12. In the result,

The Civil Miscellaneous Appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

23.09.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral citation : Yes / No
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R.HEMALATHA, J.

vum

To

- 1.The Motor Accident Claims Tribunal,
Additional District Court,
Tiruvannamalai.
2. The Section Officer, VR Section,
Madras High Court, Chennai.

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