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CMA.No.2363 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM:

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

CMA.No.2363 of 2022

The Branch Manager,
United India Insurance Co. Ltd.,
Branch Office – III,
No.248/164, Arjuna Towers,
Cherry Road, Salem – 636 001.

... Appellant

-Vs-

1.Malathi
2.Minor.Sivaganesh
3.Minor Priyadharshini
(Minors rep. by their next friend,
Guardian and Mother Malathi)
4.Krishnaveni
5.Krishnan (Died)
6.Mr.K.Ramasamy

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.728 of 2019 dated 16.03.2021 on the file of the learned Motor Accidents Claims Tribunal, (Sessions Judge, Special Court for trial of cases under SC/ST (POA)), Namakkal



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For Appellant : Mr.J.Chandran
For Respondents : Mr.B.Santhana Goplakrishnan
for M/s.R.Nalliyappan

JUDGMENT

Challenging the quantum of compensation awarded by the Tribunal in MCOP.No.728 of 2019 on the file of the Motor Accident Claims Tribunal (Sessions Judge, Special Court for Trial of Cases under SC/ST (POA), Namakkal), the appellant/insurance company has come forward with this appeal.

2.The learned counsel for the appellant does not challenge the way in which the accident occurred. The only contention of the learned counsel for the appellant is that the Tribunal had fixed the notional monthly income of the victim of the accident at Rs.15,000/-, which is on the higher side. Hence, prays to set aside the award of the Tribunal.

3.The learned counsel for the respondents/claimants submits that the victim was 44 years old at the time of the accident and was running a



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printing press in the name of 'Sri Gokulam Printers' and earning Rs.25,000/- per month. Therefore, fixing the notional income of the victim at Rs.15,000/- is just and fair and prayed to confirm the same.

4. Notional income is fixed based on the avocation and age of the victim of the accident and the date of the accident on 26.08.2019. In the present case, the deceased was self employed and aged 44 years with two children and two dependent parents. Therefore, fixation of Rs.15,000/- as notional income, considering the year of accident occurred, is just and fair. Accordingly, the Award of the Tribunal stands confirmed.

5. In the result, this Civil Miscellaneous Appeal is dismissed and the Appellant/insurance company is directed to deposit the entire award amount of Rs.24,92,500/- as determined by the Tribunal, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of **M.C.O.P.No.728 of 2019** on the file of the Motor Accidents Claims Tribunal (Sessions Judge, Special Court for Trial of Cases under SC/ST(POA), Namakkal) On such deposit being made, the Tribunal is



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directed to transfer the entire award amount to the Bank accounts of the respondents/Claimants through RTGS, in the same proportion as determined by the Tribunal, within a period of **three weeks thereafter**.

The compensation amount pertaining to the minor claimants 2 and 3 is directed to be deposited in a nationalised Bank in the interest bearing Fixed Deposit till the minors attain the age of majority and the natural guardian of the minors viz., Malathi is permitted to withdraw the accrued interest on the deposit of the minors once in six months. No costs.

02.02.2024

Tsg

To

- 1.The Motor Accidents Claims Tribunal,
Sessions Judge, Special Court for trial
of cases under SC/ST (POA)), Namakkal.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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KRISHNAN RAMASAMY, J.,

Tsg

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