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C.M.A.No.121 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal No.121 of 2022

1.Munemma

2.Bharathi

3.Dhanalakshmi

4.Sujatha

... Appellants

Vs.

1.Masthanamma Vetti

2.Magma General Insurance Company Limited,
New No.17/19, Old No.103, Navins Presadam,
3rd Floor, Nelson Manikam Road,
Amanjikarai, Chennai – 30.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and Decree dated 17.11.2021 made in M.C.O.P.No.442 of 2020 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants	:	Mr.D.Rooban Mani For Mr.K.Varadha Kamaraj
For R1	:	Dismissed
For R2	:	M/s.R.Shrividhya



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JUDGMENT

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This appeal filed by the claimants for enhancement of compensation awarded in M.C.O.P. No.442 of 2020, dated 17.11.2021, on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. According to the claimants, the first petitioner is the wife, the petitioners 2 and 4 are the daughters of the deceased namely Mangaiah, who died in Motor Accident which was taken place on 13.12.2019. The dependants by alleging the negligence act of the driver of the first respondent, they have come forward with the claim petition claiming compensation for a sum of Rs.10,00,000/- by invoking Section 166 of the Motor Vehicles Act.

4. Both the respondents were remained ex-parte before the Tribunal. Based on the evidence placed on record, the Tribunal has awarded



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compensation of Rs.6,45,000/- along with interest at the rate of 7.5% per annum from the date of filing of petition till the date of realisation.

5. Challenging the quantum of compensation awarded, the claimants have filed this appeal seeking for enhancement of compensation.

6. Mr.D.Rooban Mani for Mr.K.Varadha Kamaraj learned counsel appearing for the appellants submitted that though the age of the deceased was fixed by the Tribunal as 68 years, he was less than 60 years and the notional income fixed is also on the lower side hence prays to enhance the compensation.

7. The same was opposed by M/s.R.Shrividhya, learned counsel appearing for the respondent No.2 on the ground that the Tribunal without any evidence to prove the income of the deceased has fixed the monthly income as Rs.10,000/- and also after awarding loss of consortium and other applicable heads, the compensation has been awarded. Hence, there is no need for enhancement of compensation.



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8. I have considered the submissions made on both sides and also perused the records.

9. In this appeal, the first respondent has been given up by making endorsement. Based on the same, orders have also been passed.

10. On careful perusal of the orders of the Tribunal, which shows that though the claimants have contended that the deceased was an agriculturist, they have not proved the age of the deceased. The Tribunal has fixed the age based on Aadhar Card marked as Ex.P14 in which, the year of birth of the deceased has been stated as 1951 and the Tribunal has fixed the age of the deceased as 68 years. The claimants have not substantiate their claim that the age of the deceased was wrongly fixed, by producing any other document to support their case that deceased was aged less than 60 years. Hence, this Court finds no infirmity in fixing the age. Based on the age fixed, the Tribunal has fixed the notional income and also deducted 1/4th income of the deceased as personal expenses and awarded compensation.



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11. This Court finds that the compensation awarded by fixing notional income is in accordance with the norms followed by this Court and by following the Division Bench of the Apex Court in ***United India Insurance Co. Ltd. Vs. Satinder Kaur and Ors. 2021 11 SCC 780 : AIR 2020 SUPREME COURT 3076***, the loss of consortium has also awarded to all the four claimants. Further, the compensation awarded under the head loss of estate. This Court finds there is no reason to enhance the compensation and accordingly, the appeal is liable to be dismissed.

12. Accordingly, the Civil Miscellaneous Appeal is dismissed. The 2nd respondent is directed to deposit the amount as awarded 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.442 of 2020 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Small Causes Court, Chennai. On such deposit, the appellants are permitted to withdraw the same, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal. The Tribunal shall disburse the amount as awarded by the Tribunal by directly giving credit to the Savings Bank Account of the



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claimants. The Insurance Company is permitted to withdraw the amount if any lying in the credit of respective M.C.O.P.No.442 of 2020 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Small Causes Court, Chennai. There shall be no order as to costs in the present appeal.

29.11.2024

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Index:Yes/No
Speaking Order:Yes/No
Neutral Citation Case: Yes/No



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To:

1. The Chief Judge,
Motor Accidents Claims Tribunal,
Small Causes Court, Chennai.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.



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K. RAJASEKAR, J.

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