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C.M.A.No.2610 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.No.2610 of 2021
And
C.M.P.No.14974 of 2021**

Iffco-Tokio General Insurance Company Limited,
3rd Floor, No.128,
Habibulla Road,
T.Nagar,
Chennai – 600 017.

... Appellant

Vs.

1.S.Susheela
2.S.Rajeshprabhu
3.S.Nithya
4.H.Logeswari
5.N.Lakshmana Perumal
(this respondent has been
set-exparte in MCOP)

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decretal order and award dated 28.02.2020 made in M.C.O.P.No.795 of 2017 on the file of the Motor Accidents Claims Tribunal cum Small Causes Court – II, Chennai and be pleased to dismiss the claim and allow the CMA.

For Appellant : Mr.N.Soma Sundaar
For Respondents : R1 to R4 – No Appearance



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R5 – NRN

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J U D G M E N T

The second respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 28.02.2020 passed by the Motor Accidents Claims Tribunal cum Small Causes Court – II, Chennai, in M.C.O.P. No.795 of 2017.

2.The learned counsel appearing for the appellant submitted that the respondents 1 to 4/ Wife, Son and Daughters of the deceased filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.20 Lakhs alleging that on 11.07.2017 at about 18.45 hours, when the deceased K.Sivanandham was riding his bicycle in Madambakkam Road, Guduvanchery to Madambakkam side at Madambakkam Bridge, the Car bearing Registration No.TN-19-D-3072, driven by its driver in a rash and negligent manner hit against the deceased, due to which, the deceased lost his life. After adjudication, the Tribunal awarded a sum of Rs.5,03,000/- as compensation to the claimants along with interest at 7.5% p.a. from the date of numbering of the petition i.e., 06.02.2017 till the date of realization with costs and directed the appellant to deposit the amount.



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3.The learned counsel appearing for the appellant further submitted that aggrieved by the quantum of compensation awarded by the Tribunal, this appeal has been filed. The learned counsel further submitted that the deceased is a retired employee of the Southern Railway and the wife of the deceased is receiving family pension, even then, the Tribunal fixed the notional income of the deceased as Rs.6,400/- and instead of deducting $\frac{1}{3}$ towards personal expenses, the Tribunal deducted $\frac{1}{4}$ towards personal expenses and awarded a sum of Rs.2,88,000/- for loss of dependancy, which is highly excessive.

4.The learned counsel appearing for the appellant vehemently contended that the wife is receiving a sum of Rs.5,500/- as family pension and the son and daughters of the deceased are already married and they are not the dependants of the deceased. Hence, the quantum of compensation awarded by the Tribunal warrants interference.

5.Heard the learned counsel appearing for the appellant. Though the name of the respondents 1 to 4/ claimants have been



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printed in the cause list, there is no representation for the respondents 1 to 4. Considering the pendency of the civil miscellaneous appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

6.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

7.Even assuming that the first claimant/ first respondent is receiving a sum of Rs.5,500/- as family pension after the death of her husband, if the deceased had been alive, he may have been employed somewhere for survival. Hence, in the absence of any income proof, the Tribunal fixed the notional income of the deceased as Rs.6,400/- and has rightly deducted $\frac{1}{4}$ towards personal expenses and rightly adopted the multiplier 5 and has awarded a sum of Rs.2,88,000/- for loss of dependancy, which is just and reasonable. The amount awarded under the other heads are also just and reasonable and hence, the quantum of compensation awarded by the Tribunal warrants no interference.



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8. In view of the above, the civil miscellaneous appeal is dismissed. The judgment and decree dated 28.02.2020 passed by the Motor Accidents Claims Tribunal cum Small Causes Court – II, Chennai, in M.C.O.P.No.795 of 2017, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

06.12.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1. The Motor Accidents Claims Tribunal cum
Small Causes Court – II, Chennai.



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M.DHANDAPANI,J.
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