THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

C.M.A.No. 1883 of 2024
and
C.M.P.No. 14944 of 2024

Reliance General Insurance Company Ltd.,
Reliance House, 6th Floor, No.6,
Haddous Road, Nungambakkam,
Chennai - 600 006. ...Appellant

Vs.

1.Suji

2.Minor Suruthi

3.Minor Sudharsan
(R2 & R3 rep. by Natural Guardian, Mother / 1st respondent)

4.Govindammal

5.Krishnan

6.Patchaimuthu ...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 31.08.2023 passed in MCOP.No. 11 of 2021 on the file of the MACT (IV-Additional District & Sessions Judge), Tiruvallur at Ponneri.

For Appellant : Mr.P.Suresh Srinivasan

J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The Insurance Company is on appeal, aggrieved by the award of a sum of Rs.26,09,200/- for the death of one Suresh in a road accident that occurred on 28.09.2020.

2. According to the claimants, when the deceased was riding a two wheeler bearing Registration No.TN-07-AK-1102 from Krishnapuram towards Ponneri, a lorry bearing Registration No. TN-18-L-4035 driven by its driver in a rash and negligent manner came from behind and hit the two wheeler. As a result of which, the deceased sustained grievous injuries and died on the spot. It was claimed that since there was a valid Insurance policy, the appellant / Insurance Company is liable to pay the compensation. The quantum of compensation claimed at Rs.40,50,000/- was sought to be sustained, contending that the deceased was earning about Rs.20,000/- per month as an Employee of a Private Company in the SIPCOT Industrial Estate.

3. The Insurance Company resisted the claim contending that the accident did not occur in the manner suggested by the claimants. It was contended that the accident occurred due to the negligence of the deceased Suresh and hence, in the absence of any negligence on the part of the driver of the lorry, the Insurance Company cannot be made liable to pay the compensation. The age and income particulars were also denied.

4. At trial, before the Tribunal, the 1st claimant / wife of the deceased was examined as P.W.1 and an eye-witness, Rahul was examined as P.W.2 Exs.P1 to P9 were marked. The Insurance Company did not let in any evidence. The owner of the lorry remained exparte before the Tribunal. On the evidence available, particularly, the First Information Report marked as Ex.P1 and the evidence of P.W.2, the Tribunal concluded that the accident occurred due to the rash and negligent driving of the lorry driver.

5. On the quantum, the Tribunal disbelieved the claim of the claimants that the deceased was earning about Rs.20,000/- per month. It however, took the notional income at Rs.12,000/-, added 40% towards future prospects and adopted a multiplier of 16. After deducting 1/4 of the income towards personal expenses, the Tribunal fixed the total loss of dependency at

Rs.24,19,200/-. It also awarded Rs.15,000/- each towards loss of estate and funeral expenses, apart from awarding Rs.40,000/- each to the claimants towards loss of spousal, filial and parental consortium. Thus, the total compensation worked out to Rs.26,09,200/-. Aggrieved, the Insurance Company is on appeal.

6. We have heard Mr.P.Suresh Srinivasan, learned counsel for the Insurance Company.

7. Mr.P.Suresh Srinivasan would contend that the Tribunal was not right in fixing the entire negligence on the lorry driver and that the quantum of compensation awarded is on the higher side. We find that there is total absence of evidence on the part of the Insurance Company or the owner of the lorry. Therefore, the Tribunal had to consider only the First Information Report and the evidence of P.W.2 / eye-witness, which clearly point out the negligence on the part of the lorry driver. Therefore, we do not think, we can fault the Tribunal for having concluded that the negligence of the lorry driver was the only cause for the accident.

8. On the quantum also, we find that the Tribunal has adopted only

Rs.12,000/- as monthly income for an accident that occurred in the year 2020. The future prospects adopted and the conventional damages awarded by the Tribunal were also within the parameters fixed by the Hon'ble Supreme Court in ***National Insurance Company Ltd, Vs. Pranay Sethi and Others*** reported in ***(2017) 16 SCC 680***. The multiplier adopted also in accordance with the pronouncement of the Hon'ble Supreme Court in ***Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another*** reported in ***(2009) 6 SCC 121***. We do not find any ground to interfere with the conclusions of the Tribunal on the quantum also. Hence, we see no merit in the appeal. This Civil Miscellaneous Appeal is therefore, **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M., J.) **(R.S.V., J.)**
30.07.2024

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Internet:Yes
Index: No
Speaking
Nuetral Citation : No

R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

KKN

To:-

The Motor Accident Claims Tribunal,
IV - Additional District & Sessions Court,
Tiruvallur, Ponneri.

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