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C.M.A.No.2125 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2024

CORAM:

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

C.M.A.No.2125 of 2024

and

C.M.P.No.16286 of 2024

M/s.Reliance General Insurance Co. Ltd.,
Rep. by its Manager,
Having Office at 1st Floor,
Gee Jay Arcade, 141/71,
Thiruvankadasamy Road, West,
R.S.Puram, Coimbatore.

... Appellant

Vs.

1.Indhrani
2.Selladurai
3.Bharat
4.P.Sreemani Devi
5.P.Chinnammal
6.Manikandan

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor



Vehicles Act, 1988, against the judgment and decree dated 30.08.2019 made in MCOP.No.118 of 2017 on the file of the Motor Accidents Claims Tribunal, III Additional District and Sessions Judge, Coimbatore.

For Appellant : Mrs.C.Bhuvanasundari

For Respondents : Mr.S.Arjun for R4

J U D G M E N T

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

The Insurance Company is on appeal against the grant of a sum of Rs.16,50,000/- as compensation for the death of one Aarthi, a spinster aged about 24 years at the time of the accident.

2. Claiming that she has completed her M.B.A., and she also have an offer of appointment in an IT Company and that she also excelled in sports, the claimants who are the parents and brother of the deceased sought for a compensation of Rs.75,00,000/-.

3. This claim was resisted by the Insurance Company contending that there was violation of policy condition, inasmuch as the bus in which the



deceased was travelling was used as stage carrier without proper permit and that was driven by another person. According to the Insurance Company, to avoid liability the owner of the bus had planted another person as the driver. The quantum of compensation was also termed as excessive.

4. The Tribunal concluded that the accident happened due to the rash and negligent driving of the bus driver and the Insurance Company is liable to pay the compensation. The contention that there was breach of policy condition was rejected.

5. On the quantum, the Tribunal took the monthly income at Rs.10,000/-, added 50% towards future prospects and deducted one half towards her personal expenses, applying the multiplier '18', arrived at the total loss of dependency at Rs.16,20,000/-. The Tribunal also awarded a sum of Rs.15,000/- each for loss of estate and funeral expenses. Thus, the total compensation was fixed at Rs.16,50,000/-.

6. We have heard Mrs.C.Bhuvanasundari, learned counsel appearing for the appellant/ Insurance Company. The learned counsel for the appellant/



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Insurance Company would seek to re-agitate the contention regarding breach of policy condition and also pointed out that the Tribunal has grievously erred in adopting 50% towards future prospects. We have considered the submissions of the learned counsel for the appellant.

7. We do not think we can allow the learned counsel for the Insurance Company to re-agitate the issue regarding breach of policy condition, inasmuch as the award has been confirmed by the Division Bench of this Court in C.M.A.Nos.902 of 2020 & 677 & 680 of 2021, which are appeals by the Insurance Company on the very same award. Hence, the conclusion of the Tribunal on the liability is bound to be confirmed.

8. On the quantum, though we find some substance in the contention of the learned counsel for the Insurance Company, particularly, on the adoption of future prospects, we find that the Tribunal adopted very low income of Rs.10,000/- and it has also not awarded any amount towards loss of consortium. Hence, the award on the whole is reasonable.



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9. We do not find any merit in this appeal. The appeal therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
31.07.2024

dsa
Index : No
Internet : Yes
Neutral Citation : No
Speaking order

To

The Motor Accident Claims Tribunal,
III Additional District and Sessions Judge,
Coimbatore.



WEB COPY

C.M.A.No.2125 of 2



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

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