THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.2578 of 2021

1. Nithya
2. Sri Samantha (Minor)
3. Bhavatharani (Minor)
4. Sakthivel
5. Saroja ... Appellants/Petitioners

Vs.

1. G.Venkat Kumar
2. United India Insurance Company Limited,
   Silingi Building,
   No.134, Greams Road,
   Chennai – 600 006. ... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 29.01.2020 made in M.A.C.T.O.P.No.777 of 2016 on the file of the Motor Accidents Claims Tribunal, Small Causes, Chennai.

For Appellant : Mr.K.M.Ramesh

For Respondents : Mr.S.Dakshinamoorth (For R2)
Notice Dispensed with (For R1)

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JUDGMENT

The claimant is before this Court seeking enhancement of the award passed by the Motor Accidents Claims Tribunal, Small Causes, Chennai in M.A.C.T.O.P.No.777 of 2016 , dated 29.01.2020.

2. On 28.02.2015 at about 08.15.p.m., the deceased was standing on the road near Iyyappankovil mandapam at Thannampatty. At that time, the 1st respondent had driven his vehicle bearing Reg.No.TN 60 Y 3333 in a rash and negligent manner and dashed against the deceased and thereby the deceased lost his life. The appellants who are the claimants have filed a claim petition before the Tribunal. In order to prove the negligence as against the 1st respondent driver, the 1st appellant was examined as PW1 and the eye witness was examined as PW2 and marked exhibits P1 to P18. On behalf of the respondents, they examined RW1 and marked exhibits R1 and R2. After adjudication, the Tribunal awarded a sum of Rs.29,50,000/- as compensation to be payable by the second respondent in favour of the claimants. Seeking enhancement of the said award, the present appeal has been filed.

3. The learned counsel appearing for the appellants would submit that, the appellants marked Ex.P6, which is the Income Tax Returns of the deceased and on a perusal of the same, it reveals that, for the financial year 2012-2013, the annual income of the deceased is Rs.2,50,000/- and for the financial year 2013, the annual income of the deceased is more than Rs.2,50,000/-. Though, the deceased obtained more than Rs.2,50,000/- during the time of accident, however, without considering the same, the Tribunal has fixed the notional income of the deceased as Rs.12,500/- which is very meager. Accordingly, he prayed for passing appropriate orders.

4. Per contra, the learned counsel for the 1st respondent would submit that, though the appellant filed the income tax assessment for the financial year 2012-2013, 2013-2014, however, no income tax assessment was filed for the year 2015-2016, since the accident was happened in the year 2015 and in the absence of the income tax receipt for the financial year 2015-2016, the Claims Tribunal had rightly fixed the notional income of Rs.12,500/- and adding 40% future prospects after deducting 1/4th amount and applying multiplier 16, had passed an

award of Rs.25,20,000/- which is just and reasonable and further, the total claimants are only five, however the Claims Tribunal had awarded Rs.2,00,000/- for love and affection and for consortium of Rs.80,000/- and for son's consortium a sum of Rs.80,000/- and for relationship consortium, a sum of Rs. 40,000/- and thereby totally awarded Rs.4,00,000/- for love and affection, which is highly excessive. Hence, the award passed by the Claims Tribunal is just and reasonable and accordingly prayed for dismissal of the present appeal.

5. Admittedly, no income tax assessment was filed for the year 2015-2016, since the accident had happened in the year 2015 and in the absence of the income tax receipt for the financial year 2015-2016, the Tribunal had rightly fixed the notional income of Rs.12,500/- and adding 40% future prospects after deducting 1/4th amount and applying multiplier 16, had passed an award of Rs.25,20,000/- which is just and reasonable. Therefore, this Court is not inclined to interfere with the said compensation awarded by the Tribunal. Further, this Court finds that the compensation awarded under the other heads are just and reasonable and the same does not require any interference. Hence, the prayer sought for

by the appellant cannot be granted.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 29.01.2020 made in M.A.C.T.O.P.No.777 of 2016 on the file of the Motor Accidents Claims Tribunal, Small Causes, Chennai is hereby confirmed. No costs.

28.11.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sma

To

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

M.DHANDAPANI, J.,

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C.M.A.No.2578 of 2021

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