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C.M.A.No.1573 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM:

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

C.M.A.No. 1573 of 2021

and

C.M.P.No.8192 of 2021

The Branch Manager,
United India Insurance Co. Ltd.,
Branch Office, Saraswathy Garden,
No.1/53-1E, Dharmapuri Main Road,
Kaveripattinam,
Krishnagiri Taluk & District.

...Appellants

Vs.

1.G.Mageswari

2.Govindaraj

3.R.Prakash

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 14.12.2018 made in MCOP.No.113 of 2015 on the file of the Motor Accidents Claims Tribunal / Special District Court, Krishnagiri.



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For Appellant : Ms.I.Malar

For Respondents : R1 to R3 - Served - No Appearance

J U D G M E N T

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

The Insurance Company is on appeal. Challenge is to the award of the Tribunal dated 14.12.2018 made in M.C.O.P.No.113 of 2015.

2.The claimants are the parents of one Dhilipkumar, who died in a road accident that occurred on 23.04.2014. The deceased was a student pursuing his higher secondary in Sri Vijay Vidyalaya Higher Secondary School, Krishnagiri. On the date of the accident, he was actually waiting for his results and he has secured 1051 out of 1200 in the higher secondary examinations. It was claimed that the deceased was doing some business and also agricultural work and he was earning about Rs.25,000/- per month. According to the claimants, when the deceased was riding his motor cycle on the extreme left side of the road, the Mahindra SUV bearing registration No.TN-29-AY-2137 which was driven by its driver in a rash and negligent manner came in the opposite direction dashed against the vehicle resulting in fatal injuries and he died on the same day.

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3. A First Information Report was also registered against the driver of the Mahindra SUV bearing Registration No.TN-29-AY-2137. Contending that the deceased was a very bright student and he would have scaled greater heights in life, but for the pre-mature death, the claimants sought for a compensation of Rs.50,00,000/-.

4. The claim was resisted by the Insurance Company contending that there was no negligence on the part of the driver of the car and it was the deceased who contributed to the accident. The quantum of compensation claimed was termed as excessive and imaginary.

5. At trial before the Tribunal, the 1st claimant / mother of the deceased was examined as P.W.1 and one Thiagarajan, an eye-witness was examined as P.W.2. Exs.P1 to P17 were marked on the side of the claimants. On the side of the Insurance Company, one Mohan Kumar, Junior Assistant in the RTO Office was examined as R.W.1 and a Senior Assistant of the 2nd respondent was examined as R.W.2. Copy of the authorization letter and the motor vehicle inspection report was marked as Exs. R1 & R2.



6.Considering the evidence on record, the learned Tribunal concluded that rash and negligent driving of the driver of the Mahindra SUV bearing Registration No.TN-29-AY-2137 was the cause of the accident. On the said conclusion, the Tribunal found that since there was a valid insurance on the date of the accident, the Insurance Company would be liable to pay the compensation. On the quantum, the Tribunal assumed the monthly income of the deceased at Rs.12,000/-, added 40% towards future prospectus, deducted 50% towards personal expenses and arrived at the loss of monthly dependency at Rs.8,400/-. It applied a multiplier of 18 and arrived at the loss of total dependency at Rs.18,14,400/-. It also awarded a sum of Rs.15,000/- each towards loss of estate and funeral expenses, apart from Rs.80,000/- towards loss of consortium. Thus, the total compensation was arrived at Rs.19,24,400/-. The Tribunal apportioned the award amount equally to the parents.

7. We have heard Ms.I.Malar, learned counsel appearing for the Insurance Company.



8. The learned counsel for the Insurance Company while accepting the conclusions of the Tribunal on negligence would attack the award on quantum contending that there was no basis for assumption of Rs.12,000/- as monthly income. The deceased was only 18 years old and therefore, the Tribunal ought not to have taken Rs.12,000/- as monthly income. The learned counsel is unable to attack the award on the other grounds, since the award is in tune with the judgment of the Hon'ble Supreme Court in *National Insurance Company Ltd., Vs. Pranay Sethi and Others* reported in (2017) 16 SCC 680 and *Sarla Verma & Others Vs. Delhi Transport Corporation & Another* reported in 2009 (6) SCC 121. We have considered the rival submissions.

9. We are unable to accept the submission of the learned counsel for the appellant. Admittedly, the deceased was a student of 12th standard and he has taken his exams also. His marks show that he was an above average student, having secured over 90%. We are unable to fault the Tribunal for having taken the notional income at Rs.12,000/- Considering the fact that the accident occurred in the year 2014, we are unable to accept the said submissions of the learned counsel that the monthly income taken is on the



higher side. Probably, if the deceased had been alive, he would have scaled greater heights, considering his performance in public examinations in the 12th standard but, we have to accept the fact that there is certain element of guess work involved in computing the award for pre-mature deaths in motor accident cases.

10.In any event, considering the total compensation awarded, we do not think that it could be termed as unjust or unreasonable. Hence, we do not see any reason to interfere with the order of the Tribunal. This Civil Miscellaneous Appeal fails and it is accordingly, dismissed. Since the respondents / claimants have not appeared in the appeal, we do not make any order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
07.06.2024

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To:-
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The Motor Accident Claims Tribunal,
Special District Court,
Krishnagiri.



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