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C.M.A. No.1819 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1819 of 2021

and

C.M.P. No.9795 of 2021

Manager (Legal Officer),
Shriram General Insurance Co. Ltd.,
No.27, 2nd Floor,
100 Feet Road,
Sundharaja Nagar,
Mudhaliyarpeth,
Pondicherry.

.... Appellant

vs.

1. Gowthami
2. Anbazhagan
3. Rahamathullah

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment dated 18.12.2020 made in M.C.O.P. No.189 of 2017 on the file of Motor Accident Claims Tribunal (Special District Court), Villupuram and to dismiss the claim for compensation.

For Appellant	:	Mr.S. Dhakshinamoorthy
For Respondents	:	Mr.Ma.P. Thangavel
		for
		Mr. Lokesh for R1
		R2 & R3 – Not pressed -
		vide Court order dated 25.04.2024



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JUDGMENT

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the impugned award on the following grounds :

a) the quantum of compensation awarded by the Tribunal is excessive.

b) the 1st respondent / claimant is not a dependent of the deceased, since the claimant is a married daughter of the deceased.

2. Heard Mr.S. Dhakshinamoorthy, learned counsel for the appellant / Insurance Company and Mr.Ma.P. Thangavel, learned counsel for the 1st respondent / claimant.

3. This Court has perused and examined the impugned award passed by the Tribunal.

4. The deceased was working as a Vessel Cleaner in a restaurant at the time of the accident. The accident happened in the year 2015. The Tribunal has assessed the notional monthly income of the deceased at Rs.9,500/-. This Court does not find any infirmity in the assessment of



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the notional monthly income of the deceased as the Tribunal has given due consideration to the avocation of the deceased as well as the year of the accident.

5. Admittedly, the 1st respondent / claimant is the only daughter of the deceased. The claimant has averred in the petition filed before the Tribunal that she was aged 25 years. Even though she is married it would have been a recent marriage. She has categorically pleaded that she is the dependant of the deceased.

6. The learned counsel for the appellant relied upon a judgment of the Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. vs. Birender and Ors reported in 2020 ACC130 (SC)*** and in particular, he referred to paragraph No.15 of the said decision and would submit that the 1st respondent / claimant is not a dependant of the deceased. However, it is made clear in the decision relied upon by the learned counsel for the appellant / Insurance Company, in paragraph No.15 of the said judgment that even married children of the deceased are entitled to claim compensation and it is for the Tribunal to consider the evidence available on record and decide as to whether the married children are also dependants of the deceased or not.



7. In the case on hand, the Tribunal has taken note of the fact that the 1st respondent / claimant was aged 25 years at the time of the accident and being the only daughter of the deceased, it has rightly held based on the pleadings and deposition of the claimant, that the claimant is the dependant of the deceased and therefore, she is entitled to claim compensation for the death of the deceased as a result of an accident caused by the vehicle insured with the appellant / Insurance Company. The Tribunal has also relied upon three decisions of the Madras High Court for the purpose of giving a finding that the claimant is also a dependant of the deceased though she may be a married daughter. This Court does not find any infirmity in the finding of the Tribunal with regard to the dependency.

8. Insofar as the assessment of the notional monthly income of the deceased by the Tribunal at Rs.9,500/- is concerned, this Court does not find any infirmity for the following reasons :-

- a) The accident happened in the year 2015.
- b) On the date of the accident, the deceased was a Vessel Cleaner in a restaurant. A Vessel Cleaner working in a restaurant that too, when the accident of the year 2015 would have certainly earned Rs.9,500/-



p.m. and hence, there is no infirmity in the findings of the Tribunal with

regard to the assessment of notional monthly income of the deceased.

The Tribunal has rightly adopted the correct multiplier and has also rightly deducted 50% towards personal expenses of the deceased.

Therefore, the compensation awarded by the Tribunal towards loss of dependency is a just one.

9. The compensation awarded by the Tribunal under various heads viz., Parental consortium, Funeral expenses and Loss of estate, cannot be held to be excessive as it is a just compensation.

10. Since the overall compensation awarded by the Tribunal at Rs.10,03,250/- is a just compensation, there is no scope for interference. The contentions raised by the appellant / Insurance Company does not deserve any merit.

11. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12. The Appellant /Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at



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7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.189 of 2017 on the file of the Motor Accidents Claims Tribunal, (Special District Court), Villupuram, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the 1st respondent / claimant through RTGS, within a period of two weeks thereafter .

04.07.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2
To

1. The Special District Judge,
Motor Accident Claims Tribunal,
Villupuram.

2.The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.



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ABDUL QUDDHOSE, J.

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