



C.M.A.No.2987 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

and

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.2987 of 2024

and

C.M.P.No.24870 of 2024

The Manager,
United India Insurance Co.Ltd.,
Motor Third Party HUB,
Silingi Buildings, 4th Floor,
No.134, Greaves Road,
Chennai 600 006.

... Appellant

Vs.

1. Kamala
W/o.Raman

2.Minor.Vaishnavi
3.Minor.Supriya
4.Alagammal
5.T.R.V.Ramkumar

... Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, against the award and decree dated 12.10.2022 made in M.C.O.P.No.274 of 2015 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai.



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For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.G.J.Baskar Narayan
for R1 to R4

JUDGMENT

(Judgment of the Court was delivered by J. Nisha Banu, J)

This Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the judgment and decree dated 12.10.2022 passed in MCOP.No.274 of 2015 by the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai, by which, a sum of Rs.41,27,500/- was granted as compensation to the respondents/claimants herein.

2. The case of the claimants in the claim petition is that on 07.06.2014 at about 22.15 p.m when the deceased Raman, his friend Rajkumar and the 1st respondent got down from State Transport Bus at Thiruvidadanthai Bus Stop to go to Mammalapuram and while crossing from west to east on the road passing towards south to north direction, a Hyundai i-20 car bearing registration No.TN-64-B-0969 driven by its driver in a rash and negligent manner, hit the deceased and the 1st respondent, due to which, the said Raman sustained grievous injuries and died on the spot and the 1st respondent sustained grievous injuries all over the body. Therefore, the claimants/ respondents herein who are the legal representatives of one Raman have filed the claim petition



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before the Motor Accident Claims Tribunal, Chennai, claiming a sum of

Rs.50,00,000/- as compensation.

3. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Hundai i20 car and awarded a sum of Rs.41,27,500/- as compensation to the claimants and as the 1st respondent/ owner of the said car had insured with the 2nd respondent, the 2nd respondent insurance company was directed to pay the award amount to the claimants/respondents.

4. Challenging the said award dated 12.10.2022 made in M.C.O.P.No.274 of 2019, the appellant-Insurance Company has come out with the present appeal.

5. The learned counsel for the appellant submitted that the Tribunal erred in awarding a sum of Rs.41,27,500/- as compensation inspite of the fact that the respondents failed to prove their claim of loss of income. Learned counsel for the appellant would submit that Exs.P4, P5 and P6 are inadequate to presume the alleged income of the deceased as Rs.25,000/- per month. He would further state that in the absence of statement of account of the business, GST turnover



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statement and payment details of third party purchasers, the Tribunal ought not to have assumed more than Rs.6,500/- per month. He would further state that the Tribunal ought not to have applied 14 years multiplier as the respondents 1 to 4 have not properly proved the age of the deceased and the Tribunal ought to have added 25% towards future prospectus in the absence of admissible age proof.

6. Learned counsel for the claimants would state that the deceased was doing stone sculpture business and was earning more than Rs.30,000/- per month, however, the Tribunal had fixed only a sum of Rs.25,000/- per month as his earning. The learned counsel would further state that only based on the age of the deceased, the Tribunal added 25% towards future prospect. Therefore, he would pray to dismiss the appeal.

7. Heard the learned counsel for the appellant as well as the learned counsel for the 1st to 4th respondents and perused the materials available on record.

8. The appellant Insurance Company has filed this appeal mainly questioning the quantum of the award passed by the Tribunal. The Tribunal

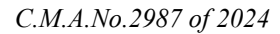


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has awarded a sum of Rs.41,27,500/- as compensation to the claimants. It is not in dispute that the deceased was a sculptor and was also doing stone sculpture business. Though the claimants have claimed that the deceased was earning more than Rs.30,000/- per month, the Tribunal has granted only Rs.25,000/- per month as loss of income. Ex.P4 to P6 were marked to prove that the deceased was taking orders for doing sculpture work. However, the Tribunal has found that though he was doing the sculpture work and taking orders from third parties, since there was no proper evidence to prove that he was earning Rs.30,000/- per month, had awarded a sum of Rs.25,000/- only.

9. Further, the Tribunal has taken the age of the deceased as 45 years based on Ex.P2 death report, Ex.P3 Death certificate and Ex.P34 postmortem report and the Insurance Company did not raise any objection as to the age of the deceased before the Tribunal and the same was also recorded by the Tribunal at paragraph No.10 of the judgment. Therefore, granting 25% towards future prospect based on the age of the deceased is fair and reasonable and there is no error in the said finding of the Tribunal warranting interference by this Court.

10. The deceased was aged about 45 years at the time of accident as per



11. In the result, the Civil Miscellaneous Appeal is dismissed and the sum of Rs.41,27,500/- awarded by the Tribunal as compensation to the respondents 1 to 4/claimants, along with interest and costs is confirmed. The appellant/Insurance Company is directed to deposit the entire amount awarded by the Tribunal along with interest and cost, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 and 4/claimants are permitted to withdraw their respective share of the award amount as per the apportionment fixed by the Tribunal, along with proportionate interest and costs, less the



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amount if any, already withdrawn. The shares of the minors/respondents 2 and 3 are directed to be deposited in any one of the Nationalised Banks till the minors attain majority. The 1st respondent being the mother of the minors/respondents 2 & 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minors. No costs. Consequently, connected Miscellaneous Petition is closed.

(J.N.B., J.) (R.S.V., J.)
08.11.2024

vsi

To

The Motor Accident Claims Tribunal,
VI Small Causes Court, Chennai.



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J. NISHA BANU, J.
and
R.SAKTHIVEL, J.

vsi

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