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CMA.Nos.1985 of 2023 and 570 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.Nos.1985 of 2023 and 570 of 2024

1. M/s.SBI General Insurance Company Limited
Chennai-6

Appellant-CMA.1985 of 2023 and
R2-CMA.No.570 of 2024

Vs

1. Lalitha
2. Kumar
3. Sathiyaseelan

RR1-3-CMA.1985 of 2023 and
Appellants-CMA.570 of 2024

4. S.Elango

R4-CMA.1985 of 2023 and
R1-CMA.570 of 2024

Prayer:- These Civil Miscellaneous Appeals have been filed, against the judgement and decree, dated, 03.09.2022, made in MCOP.No.3524 of 2019, by the Small Causes Court II (MACT) Chennai.

For Appellant : Ms.Harini-CMA.1985 of 2023

For Respondents : Mr.K.Varadhakamaraj-RR1-3-CMA.1985 of 2023
R4-CMA.1985 of 2023- No Appearance

JUDGEMENT

1. These Civil Miscellaneous Appeals have been filed, by the Insurance Company and the claimants respectively, against the judgement and decree,



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dated, 03.09.2022, made in MCOP.No.3524 of 2019, by the Small Causes Court II (MACT) Chennai. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal.

2. The claimants, who are the mother and sons of the deceased Krishnamoorthy, have filed the claim petition before the Tribunal, seeking a compensation of Rs.40,00,000/- on various heads, for the death of the deceased, who died in a motor road accident, which took place on 08.05.2019. The 1st Respondent/owner of the offending vehicle remained exparte. The claim petition was resisted, on various grounds, by the 2nd Respondent/ Insurance Company, by filing a counter. On the side of the claimants, PW.1 and PW.2 were examined and Ex.P1 to Ex.P8 were marked.
3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle belonged to the 1st Respondent and insured with the 2nd Respondent, the Tribunal has awarded a total compensation of Rs.8,77,800/-, on various heads, with interest at 7.5% p.a. from the date of the claim petition till the date of realization, to be paid by the 2nd Respondent Insurance Company, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Dependency	712800
2	Loss of Consortium	132000
3	Loss of Estate	16500
4	Funeral Expenses	16500
Total Compensation		877800



Aggrieved by the quantum of compensation, these appeals have been filed by the 2nd Respondent Insurance Company and the claimants respectively.

4. This Court heard the learned counsel for the Appellant/ Insurance Company and the Respondents/ claimants, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the negligence aspect and the liability aspect as well and the dispute is only with regard to the quantum of compensation, particularly, in respect of the age of deceased and the multiplier adopted by the Tribunal, the findings of the Tribunal with respect to the negligence aspect and liability aspect are confirmed and also it is not necessary to narrate the entire facts in detail in respect of the accident.
6. According to the learned counsel for the Appellant Insurance Company, as per the Aadhaar Card of the deceased, he was aged 64 years old at the time of the accident, but without considering the said aspect, the Tribunal erred in fixing the age of the deceased as 60 years and consequently, the multiplier of 9 adopted by the Tribunal for arriving at the compensation for loss of dependency is also not correct and if the age of the deceased is taken as 64 years, the proper multiplier is 7. For such aged person, adding 10% towards futures prospects is also not just and proper. Hence, the compensation is to be reduced, by applying the proper multiplier.
7. The learned counsel for the Respondents/ claimants would submit that the deceased was earning a sum of Rs.21,000/- as a carpenter and hence, the notional monthly income of the deceased fixed at Rs.9000/- for the accident



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which took place in 2019, by the Tribunal is on the lower side and Rs.12,500/- p.m. is the reasonable notional monthly income.

8. The Tribunal fixed the age of the deceased as 60 years based on the legal heir certificate and the Aadhaar Card of the 1st claimant. But, it would be appropriate to fix the age of the deceased as per his Aadhaar Card, as per which, his age is 64 years. Even if the age of the deceased is taken as 64 years and applying the corresponding multiplier of 7 and taking the notional monthly income of the deceased as Rs.12,500/- and deleting 10% towards future prospects, there will not be any difference between the compensation arrived at by the Tribunal and the compensation that would be arrived at by this Court by applying said modifications. At this juncture, the learned counsel on either side both would submit that the impugned compensation awarded by the Tribunal may be confirmed. Accordingly, the impugned judgement and decree is confirmed, without any modification in all respects.

9. In fine, these Civil Miscellaneous Appeal are dismissed. No costs. The impugned judgement and decree shall stand confirmed. The claimants are entitled to the compensation with interest as arrived at by the Tribunal and as apportioned by it. The Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer, by way of RTGS, the respective compensation amounts with proportionate interest as



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awarded and as apportioned in the impugned judgement and decree, directly to the respective bank accounts of the claimants, within a period of three weeks thereafter. No costs.

21.03.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation
Srcm

To

1. The Small Causes Court II (MACT) Chennai
2. The Record Keeper, VR Section, High Court, Madras



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KRISHNAN RAMASAMY, J.

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