IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

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THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.No.2874 of 2024 and
C.M.P.No.23659 of 2024

Reliance General Insurance Company Limited,
Reliance House,
No.6, Haddows Road,
Chennai - 600 006. ... Appellant

Vs.

1. Raveena
2. Vennila
3. Damodaran

4. R.B.Blocks,
R.Senthilkumar. ... Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988 to set aside the judgment and decree dated 04.01.2024 passed in M.C.O.P.No.5422 of 2021 on the file of the Motor Accidents Claims Tribunal, (Special Sub Court No.1), Small Causes Court, Chennai.

For Appellant : Mr.P.Suresh Srinivasan

For Respondent Nos.1 to 3 : Mr.K.Premkumar

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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 quantum of compensation awarded by the Motor Accidents Claims Tribunal.

2. The facts of the case is that the deceased was travelling as a pillion rider in a motorcycle bearing Reg.No. TN-21-AP-9604 which was driven by his friend Sankar and when they were proceeding in the Vandalur to Walajabad Road near Panruti Junction, the first respondent Lorry bearing Reg.No.TN-11-AD-1652 came on the same direction and hit against the above-said motorcycle. As a result of which, the deceased was thrown out and sustained grievous injuries on the head and all over the body and he was taken to Government Hospital at Chengalpattu. In spite of the treatment, the victim succumbed to the injuries on 22.10.2021. It is alleged that the accident took place only due to the rash and negligent driving by the driver of the lorry. Therefore, the first respondent/wife of the deceased and the second and third respondents who are the parents of the deceased have filed the claim petition

in M.C.O.P.No.5422 of 2021 on the file of the Motor Accidents Claims Tribunal, (Special Sub Court No.1), Small Causes Court, Chennai claiming a compensation of Rs.45,00,000/-. As against the said claim, the Tribunal has awarded a sum of Rs.26,00,000/- as total compensation. Aggrieved over the same, the Insurance Company has filed the present Appeal.

3. The fourth respondent, who is the owner of the offending vehicle, remained *ex parte* before the Tribunal.

4. The learned counsel for the appellant/Insurance Company has contended that the Tribunal erred in holding that the driver of the lorry was responsible for the accident. He has further denied the avocation and income of the deceased. He further submitted that the amount awarded under the various heads does not in any way corroborate with the avocation and the age of the deceased. In any event the amount awarded by the Tribunal is excessive and exorbitant, hence prays to dismiss this petition.

5. *Per contra,* the learned counsel for the claimants/respondents would contend that due to the sudden demise of the sole bread winner of the family, the family members are in a deprived condition. He further contended that the amount awarded by the Tribunal is very meager, which needs significant enhancement.

6. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously

7. With regard to negligence Mrs.Raveena/wife of the deceased was examined as P.W.1 and P.W.2/Suresh were examined before the Tribunal and both of them deposed that the victim died only due to the road accident that took place on 22.10.2021. The evidence of P.W.1 corroborates the contents of Ex.P1/F.I.R, which supports the case of the claimants rather than appellant. It was further observed that the victim died only due to the rash and negligent driving of driver of the lorry. Even though the Appellant/Insurance Company herein challenges the negligence and quantum, they have not

examined any witness or adduced any evidence before the tribunal to substantiate their contention. Therefore, the findings of the Tribunal that the accident had occurred due to rash and negligent driving of the driver of the lorry have to be confirmed and they are confirmed as such.

8. With regard to quantum, based on the deceased salary slip/Ex.P9, Bank passbook/Ex.P10 and the copy of the ESI letter marked as Ex.P11 the Tribunal has fixed the average monthly income of the deceased at Rs.12,755/- and the same has not been disproved by the Insurance Company before the Tribunal. As per the decision rendered in ***National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601,*** 40% has to be added towards future prospectus since the age of the deceased was 28 at the time of accident. Thus, by awarding 40% of his income towards future prospects, a sum of Rs.5,102/- was added to his monthly contribution taking the total monthly contribution as Rs.17,857/-. After 1/3rd deduction towards personal expenses, the annual contribution of the deceased comes to Rs.1,42,856/-. By applying multiplier 17 as per the decision rendered in ***Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009),*** since the age of the deceased was 28 at the time of death, a total sum of Rs.24,28,552/-

was arrived towards loss of dependency. That apart, a sum of Rs.16,500/-, Rs.5,500/- and Rs.16,500/- was awarded towards Funeral Expenses, Transportation charges and loss of estate, respectively. Further a sum of Rs.1,32,000/- was awarded to the first claimant/wife under the head loss of consortium. Thus, in all, a total compensation of Rs.25,99,052/-, rounded off to Rs.26,00,000/- was awarded as compensation to the claimants. Hence, this Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, based on settled principles of law and therefore, there is no ground to interfere with the order passed by the Tribunal. Further, the grounds taken by the Insurance Company on the point of quantum is not reasonable and cannot be accepted. Therefore, the grounds raised by the Insurance Company are liable to be rejected and they are rejected accordingly. Thus, the compensation awarded by the Tribunal is just, fair and reasonable.

9. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The Appellant/ Insurance Company shall deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four (4) weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the

claimants are permitted to withdraw their respective share of the award amount on the basis of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn.

(J.N.B., J.) (R.K.M., J.)
22.10.2024

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To

The Motor Accidents Claims Tribunal, (Special Sub Court No.1),
Small Causes Court, Chennai.

J. NISHA BANU, J.
and
R.KALAIMATHI, J.

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