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C.M.A.No.160 of 202



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.01.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**C.M.A.No.160 of 2024 &
CMP.No.1583 of 2024**

M/s.The United India Insurance Company Limited,
'Sillingi Buildings'
No.134, Greams Road,
Chennai – 600 006.

...Appellant

Versus

1.John Bosco
2.Christina Bosco
3.Riyasudheen

...Respondents

PRAYER : The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the final award dated 27.04.2023, passed in M.C.O.P.No.1593 of 2017, by the Motor Accidents Claims Tribunal (III Court of Small Causes), at Chennai.

For Appellants : Mr.J.Michael Visuvasam

For Respondents : Mrs.Sunithi Asivami for RR1 & 2 for



Mr.S.Ravikumar

J U D G M E N T

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The Civil Miscellaneous Appeal had been preferred against the award of the Motor Accident Claims Tribunal in M.C.O.P.No.1593 of 2017 on the file of the Motor Accidents Claims Tribunal (III Court of Small Causes), Chennai.

2.Heard Mr.J.Michael Visuvasam, learned counsel appearing for the appellant and Mrs.Sunithi Asivami, learned counsel appearing for Mr.S.Ravikumar, learned counsel appearing for the respondents 1 and 2.

3. The learned counsel appearing for the appellant would submit that the challenge to the award is in respect of the quantum that had been fixed under the head 'loss of dependency'. He would submit that the Tribunal while deciding the income of the deceased had fixed a sum of Rs.25,000/- as notional monthly income of the deceased. The learned counsel appearing for the appellant would vehemently contend that at the time of the accident, the deceased was not in employment and would submit that even as per Ex.P.9, the deceased was only in employment till June 2016 and when the accident had taken place that is in December 2016, the deceased was not in



employment. Therefore, he would submit that the notional income that had been arrived at by the Tribunal is on the higher side and should have only fixed at notional income as per the schedule and in that context, he would submit that if the notional income of the deceased is varied, the loss of dependency would also be varied. Therefore, he would seek interference of the award passed by the Tribunal.

4. We have heard the learned counsel appearing on either side and perused the materials placed on record.

5. It is the case of the claimants before the Tribunal that the deceased was a qualified teacher and had been employed in United Arab Emirates, which had been supported by the Ex.P.9. The learned counsel appearing for the appellant also produced the copy of Ex.P.9, which would show that the deceased was drawing a salary of Aed 3435 per month. Apart from that he also produced the copy of Ex.P.19, the employment salary certificate of the deceased. The deceased had come to Chennai for medical treatment and had met with an accident in the month of December. This would not mean that the deceased would continue to be unemployed.



6. It is also not disputed by the appellant that the deceased was a qualified teacher and would definitely be seeking an employment after the treatment. In such circumstances, the claim of the appellant that the deceased was unemployed at the time of the accident and would be entitled to only notional income as fixed in the table cannot be countenanced.

7. Further, a reading of the award passed by the Tribunal would indicate that the Tribunal had not considered Ex.P.9 and Ex.P.16 for assessing the income of the deceased. However, the Tribunal had only taken into account the educational qualification and the passport that the deceased had the ability to work outside India for earning and therefore, arrived at a sum of Rs.25,000/- per month as notional income of the deceased. These findings and reasonings arrived at by the Tribunal, does not require any interference by this Court in the given facts and circumstances of the case.

8. In fine, the Civil Miscellaneous Appeal fails and the same is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.K.,J.)
(K.B., J.)



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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

1. Motor Accidents Claims Tribunal (III Court of Small Causes), Chennai
2. The Section Officer
VR Section
High Court of Madras
Chennai – 600 104



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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

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