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CMA.No.1915 of 2024
and C.M.P.No.15054 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CMA.No.1915 of 2024
and
C.M.P.No.15054 of 2024

Saroja

1. N. Babu
2. N. Ravi
3. N. Meena

... Appellants

vs.

1. M. Suresh
2. The Branch Manager,
The New India Assurance Company Limited,
Dharmapuri.
3. Meena
4. Minor Divyarajan
5. Minor Udhayakumar
6. Chandira

... Respondents

Minor respondents 4 and 5 represented by their next friend/3rd respondent.

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 21.06.2022 in M.C.O.P.No.835 of 2015 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.



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For Appellants : Mr. E. Sathiaraj
For R2 : Mr. M. Krishnamoorthy
R1 : Notice dispensed with

JUDGMENT

The present appeal is filed questioning the apportionment made by the Tribunal among the legal heirs of the deceased.

2. The appellants are the claimants in M.C.O.P.No.835 of 2015 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri. They filed the claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.10,00,000/- for the death of Natarajan (father of the appellants/claimants 1 to 3) in a road accident that took place on 24.06.2015.

3. The case of the claimants in a nutshell is as follows:

3.1. On 24.06.2015, Natarajan (deceased) was walking along Dharmapuri-Salem Road and at about 7.30 p.m., when he was nearing a Honda Show Room, a speeding auto bearing Registration Number TN 29 AB 5522 belonging to the first respondent hit him, as a result of which he



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sustained injuries all over his body. He was immediately rushed to Dharmapuri Medical College Hospital. However, he succumbed to injuries on the same day.

4. The sixth respondent is the second wife of the deceased Natarajan. The third respondent and one Prasanna (deceased) are the daughters of Natarajan (deceased) born through his second wife. Minor Divyarajan and Udayakumar are the children born to Prasanna. The Tribunal after awarding a compensation of Rs.6,29,000/- apportioned the Award amount as detailed hereunder:

17. In the result, the petition is partly allowed and a total compensation of Rs.6,29,000/- (Rupees Six lakhs and twenty nine thousand only) is awarded to the petitioners 2 to 4 and respondents 3 to 6 with cost. The second respondent is directed to deposit the award amount with interest @ 7.5% per annum from the date of petition till the date of deposit (excluding the period of dismissal for default if any) together with cost of Rs.19,311.50 (Rs.9,316.50 to petitioners 2 to 4 and Rs.9,995.00 to respondents 3 to 6) within a period of 2 months to the credit of current account No.35999277783 standing in the name "The Special Court



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Judge (MACT), Dharmapuri" maintained in the State Bank of India, Dharmapuri (IFSC Code No. SBIN0000 832) by direct transfer through NEFT or RTGS. Petitioners 2 to 4 are allotted Rs.1,05,000/- each; 3rd respondent is allotted Rs.1,00,000/-; respondents 4 and 5 are allotted Rs.77,000/- each; and 6th respondent is allotted Rs.60,000/- towards their shares. Petitioners 2 to 4 and respondents 3 to 6 are permitted to withdraw their entire share amount with interest and cost immediately. Share amount allotted to minor 4th and 5th respondents shall be invested in fixed deposit in a nationalized bank until they attain the age of majority. Next friend/guardian/3rd respondent Meena is permitted to withdraw interest on minors' deposit once in 6 months or the benefit of minor respondents. On such occasion, interest shall be directly transferred to the bank account of minor respondents by NEFT or RTGS. Disbursement of amount to the petitioners 2 to 4 and respondents 3 to 6 shall be made by direct transfer to the credit of their respective bank account by NEFT or RTGS. Petitioners 2 to 4 and respondents 3 to 6 are directed to pay balance of court fee of Rs.5,287.50 (Rs.2,147.50 by petitioners 2 to 4 and Rs.3,140.00 by respondents 3 to 6) within 30 days. They shall not be entitled to withdraw the sum deposited pursuant to the award with interest and cost



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unless the balance of court fee is deposited as directed.

The petitioners advocate fee is fixed at Rs.6,645.00. The respondents 3 to 6 advocate fee is fixed at Rs.6,645/- (Total advocate fee is fixed at Rs.13,290/-)".

5. Questioning the apportionment made by the Tribunal, the present appeal is filed.

6. Heard Mr.E. Sathiyaraj, learned counsel appearing for the appellants and Mr.M. Krishnamoorthy, learned counsel appearing for the second respondent.

7. Mr.E. Sathiyaraj, learned counsel appearing for the appellants contended that Meena and Prasanna are not born through Natarajan (deceased) and therefore, they are not entitled to get any compensation.

8. It is seen from the records that subsequent to the filing of the claim petition, the respondents 3 to 6 got themselves impleaded as parties to the claim petition as per the orders passed by the Tribunal in I.A.No.664 of 2017 and I.A.No.136 of 2019. The claimants did not file



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any appeal/revision against the orders passed by the Tribunal impleading the respondents 3 to 6 as parties to the claim petition. Therefore, it is now not open to the counsel for the appellants to raise objections at this stage and state that the third respondent and one Prasanna (mother of the respondents 4 and 5) were not born to Natarajan (deceased). The Tribunal after considering the relationship between the parties, had apportioned the Award amount in the right manner. I, therefore, do not see any reason to interfere with the same. Accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

27.08.2024

Index : Yes/No
Speaking/Non-speaking order
bga

To

1. Motor Accident Claims Tribunal, Special District Court, Dharmapuri.
2. The Branch Manager,
The New India Assurance Company Limited,
Dharmapuri.
3. The Section Officer, V.R. Section, Madras High Court, Chennai.



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R.HEMALATHA, J.
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