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C.M.A.No.273 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

C.M.A.No.273 of 2024

and

C.M.P.No.3018 of 2024

Reliance General Insurance Company Ltd.,
Legal Department, Reliance House, 6th Street,
No.6, Hadows Road, Nungambakkam,
Chennai - 600 006.

...Appellant

Vs.

1.S.Sumathi
2.S.Rubesh
3.S.Aarthika
(Minor 2nd & 3rd respondents represented by their
mother, S.Sumathi (1st Respondent), Natural guardian
and next friend)

4.Ishwar Natha Hipparkar

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.06.2023 passed in MCOP.No.3803 of 2021 on the file of the MACT Chief Judge, Court of Small Causes at Chennai.

For Appellant : Mr.P.Suresh Srinivasan

For Respondents : Mr.K.Ayyadurai for Mr.P.Gajendiran for R1



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J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The Insurance Company is on appeal. Challenge is to the quantum of compensation awarded for the death of one J.Sivagnanamoorthy in a road accident that occurred on 14.08.2021 at about 8.30 p.m.

2.The claimants sought for compensation of Rs.99,00,000/-, contending that the deceased died due to the rash and negligent driving of the driver of the lorry bearing Registration No.MH-46-BM-1025, which came from behind and hit the motor cycle in which the deceased was riding. The claimants sought to support the quantum of compensation by contending that the deceased was working as a Sanitary Worker, in the Institute of Mental Health & Hospital, Kilpauk, Chennai and drawing a salary of Rs.33,184/- per month. The respondent / Insurance Company disputed the age, income particulars and contending that the accident did not occurred due to rash and negligent manner of the driving of the lorry.

3.Before the Tribunal, 1st claimant was examined as P.W.1 and one eye-witness Mr,K.Etti was examined as P.W.2. The First Information Report was filed as Ex.P1, the income tax statement, copy Form 16 of the

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deceased and pay slip were marked as Exs.P12, P13 & P14 respectively.

The Insurance Company did not let in any evidence.

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4.The Tribunal, in the absence of any evidence on the side of the Insurance Company, relied on the First Information Report concluded that the accident had occurred due to the rash and negligent driving of the driver of the lorry. Therefore, Insurance Company, as the Insurer of the lorry is liable to pay the compensation.

5.On the quantum, the Tribunal took into account the salary certificate, income tax returns and fixed the annual income of the deceased to arrive at the total taxable income of the deceased at Rs.2,80,096/- It however, made a deduction upfront and took the yearly income at Rs.2,50,000/-. It added 30% towards future prospects and deducted 1/3rd towards personal expenses. The Tribunal applied the multiplier of 14 and arrived at the total monthly loss of dependency at Rs.30,33,333/-. It also awarded Rs.15,000/- each towards loss of estate, funeral expenses and Rs.1,20,000/- towards loss of consortium. The grants being in conformity with the judgment of the Hon'ble Supreme Court in *National Insurance*



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Company Limited., Vs. Pranay Sethi and Others reported in 2017(2)

TNMAC 609. The total compensation was thus arrived at Rs.31,83,333/-.

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6.Though Mr.P.Suresh Srinivasan, learned counsel for the Insurance Company would vehemently contend that the income adopted by the Tribunal is on the higher side, we are unable to countenance his statement, since the income adopted has been arrived based on tangible materials like salary slips and income tax returns. We are unable to permit the counsel to argue on negligence, since there is total absence of evidence on the side of the Insurance Company. We see no merit in the appeal. This Civil Miscellaneous Appeal is therefore, **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
19.02.2024

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Internet:Yes

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Speaking

Nuetral Citation :No



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To:-

The Motor Accident Claims Tribunal,
Chief Judge, Court of Small Causes,
Chennai.



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and
R.SAKTHIVEL, J.

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