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CMA.(MD)No.579 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24/04/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

CMA (MD) No.579 of 2021

and

CMP (MD) No.5534 of 2021

IFFCO-TOKIO General Insurance
Co. Ltd.,
82, Preetham Plaza,
Gr.Flr & 1st Flr,
Chandra Kandhi Nagar,
Ponmani, Madurai.
Tamil Nadu-625 018.

: Appellant/2nd Respondent

Vs.

1.S.Muthuraman
2.Rajesh
3.Suresh Kumar

: R1 and R2/Petitioners

: 3rd Respondent/R1

PRAYER:- Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree passed in MCOP No.4 of 2016 on the file of the Motor Accident Claims Tribunal (Additional District Judge), Pudukkottai, dated 06/07/2020.

For Appellant : Mrs.K.R.Shivashankari

For R1 and R2 : Mr.K.Srinivasa Ragavan

For 3rd Respondent : No appearance



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JUDGMENT

This Appeal is filed seeking to set aside the judgment and decree passed in MCOP No.4 of 2016, dated 06/07/2020 by the Motor Accident Claims Tribunal (Additional District Judge), Pudukkottai.

2.The facts in brief:-

On 05/05/2015 at about 03.00 am, on the Pudukkottai to Thirumayam main road near Pambaru bridge, one Marimuthu was riding a bullock cart with idols and several persons were walking in front and on the back side of the cart. At that time, the Lorry bearing registration No.TN-63-AC-5698 driven by its driver came in a rash and negligent manner and hit the bullock cart. As a result of which, several persons were injured. One Datchinamoorthy and other also died on the spot. One Maiyappan also died in the occurrence, so also one Sekar. Over the occurrence, a case in Crime No.78 of 2015 was registered against the driver of first respondent vehicle. Claiming compensation amount for the death of Sekar and Maiappan, MCOP No.4 of 2016 was filed.

3.That was resisted by the Insurance Company stating that on the date of the occurrence even though the policy was in force, the vehicle was not having proper



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registration certificate, fitness certificate and the driver did not have any proper licence. Apart from that, customary denials are also made.

4.Before the Tribunal, on the side of the claimants, 3 witnesses were examined and 22 documents marked. On the side of the Insurance Company, 2 witnesses were examined and through PW2, one document was marked.

5.At the conclusion of the enquiry process, the Tribunal found that the occurrence took place because of the rash and negligent driving of the first respondent vehicle driver.

6.Regarding the compensation, age of the deceased fixed at 50 and the notional income was fixed at Rs.7,500/-. By adding future prospects, it was fixed at Rs.9,375/-. 1/3rd customary deduction was made and finally, the loss of income was assessed at Rs.9,75,000/- and customary amounts were also added. Finally, it fixed the total amount of Rs.10,50,000/-.

7.Against which, this appeal has been preferred by the Insurance Company.



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8.In the grounds, it has been stated that the third respondent namely the father of the deceased was living separately and the assessment of compensation under various heads is not correct.

9.Regarding the medical expenses, there is no serious issue. The manner in which the accident took place speaks for itself. It was a hitting behind, so naturally the entire responsibility was fixed upon the driver of the offending vehicle. So the conclusion reached by the Tribunal on that aspect requires no interference at all.

10.Regarding the compensation amount also, I find that fixation of the notional income at Rs.7,500/- is not on the higher side. Even for agricultural labour, they are getting not less than Rs.500/- per day during the relevant time. But the Tribunal has taken the minimum amount of Rs.7,500/- per month due to the absence of any other materials to show that he was working as 'Servant' in a hotel. Considering the age, he was having two children, the notional income fixed cannot be found fault. To that effect, the above said customary amounts were also added. So the fixation of the total compensation under the head of loss of income at



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Rs.9,75,000/- is a just compensation, which requires no interference at all.

11.Regarding the loss of love and affection, the Tribunal fixed at Rs.25,000/- each. It is lesser against the norms. Apart from that, Rs.10,000/- towards transportation charges and Rs.15,000/- towards funeral expenses, which are also supported by the documents. Finally, it arrived at Rs.10,50,000/- as per the tabulation given hereunder:-

Loss of Income	Rs. 9,75,000/-
Loss of love and affection	Rs. 50,000/-
Transport charges	Rs. 10,000/-
Funeral expenses	Rs. 15,000/-
Total	Rs.10,50,000/-

12.I am of the considered view that the compensation awarded by the tribunal is just and reasonable compensation and no interference is required at all. So, no ground is made out to interfere into the award passed by the Tribunal.



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13.In the result, this Civil Miscellaneous Appeal is

dismissed. No costs. Consequently, connected

Miscellaneous Petition is closed.

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Index:Yes/No

Internet:Yes/No

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To,

1.The Motor Accident Claims Tribunal/
Additional District Judge,
Pudukottai.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madurai High Court,
Madurai.



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G.ILANGOVAN, J

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