



C.M.A.(MD)No.439 of 2014

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : **05.09.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.439 of 2014
and M.P(MD)No.4 of 2014

The Divisional Manager,
The National Insurance Company Limited,
706, Thenkasi Road,
Rajapalayam

... Appellant/2nd Respondent

Vs.

1.Muthu Irulan
2.Karupayee
3.Mariammal
4.Shanthi
5.Mallika
6.Rajendran

...Respondent 1 to 5/Petitioners 1 to 5
...6th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and award dated 01.02.2013 passed in M.C.O.P.No.26 of 2012 on the file of the Motor Accident Claims Tribunal, Additional District Court, Virudhunagar.

For Appellant : Mr.J.S.Murali

For R1 to R5 : Mr.P.Arun Jayatram

R6 : Exparte



C.M.A.(MD)No.439 of 2014

JUDGMENT

WEB COPY

The instant appeal has been filed challenging the quantum of compensation awarded by the Tribunal.

2. The respondents 1 to 5/claimants 1 to 5 filed a claim petition stating that while the deceased was working as a Cleaner in a Tractor, which was parked on the left side of the road, a lorry insured with the appellant came in a rash and negligent manner and dashed against the Tractor from behind, as a result of which, the deceased sustained fatal injuries.

3. The 6th respondent remained exparte before the Tribunal.

4. The appellant filed a counter denying the averments made in the claim petition and stated that in any case, the compensation awarded by the Tribunal is excessive.

5. The claimants examined P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.11. The appellant neither examined witnesses nor marked documents.



C.M.A.(MD)No.439 of 2014

6. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the negligence of the driver of the insured vehicle and awarded a sum of Rs.6,57,000/- as total compensation.

7. The learned counsel for the appellant submitted that the award of the Tribunal is challenged only on the ground that excessive compensation was awarded to the respondents 1 to 5/claimants; and that they are not challenging the finding on negligence.

8. The learned counsel for the appellant further submitted that though P.W.1, the mother of the deceased stated that the deceased was earning Rs.150/- per day, the notional income of Rs.6000/- was fixed by the Tribunal, which is excessive and prayed for reduction.

9. The learned counsel for the respondents 1 to 5/claimants per contra submitted that even assuming that the income was fixed at Rs.4500/- per month and and if 40% is added for future prospects, the monthly income of the deceased would have to be at Rs.6300/-, but the Tribunal has fixed the monthly income at Rs.6000/- only without adding



C.M.A.(MD)No.439 of 2014

40% for future prospects; that the Tribunal awarded a very meagre amount of Rs.25,000/- under the head 'loss of love and affection'; that over all, the compensation awarded by the Tribunal is just and reasonable, and he prayed for dismissal of the appeal.

10. This Court gave its anxious consideration to the submissions made on either side and carefully perused the materials available on record.

11. The only point for consideration in this appeal is whether the quantum of compensation awarded by the Tribunal is just and reasonable.

12. On a perusal of the grounds of appeal, this Court finds that the appellant had stated that the Tribunal ought to have adopted multiplier '13' by considering the age of the mother of the deceased instead of the multiplier '17'. The claim petition was filed in the year 2013 and law thereafter has been crystallised by the Hon'ble Supreme Court of India that the multiplier has to be fixed on the basis of the age of the deceased. Therefore, the Tribunal has correctly adopted the multiplier '17' considering the age of the deceased.



C.M.A.(MD)No.439 of 2014

13. So far as the fixation of monthly income at Rs.6000/- by the Tribunal is concerned, as rightly contended by the learned counsel for the claimants that even if the evidence of P.W.1 is accepted to the effect that the deceased was earning Rs.4500/- per month and 40% was added for future prospects, the monthly income of the deceased would have to be at Rs.6300/- and the Tribunal, without adding 40% for future prospects, has taken the monthly income only at Rs.6000/- and therefore, it cannot be said that excessive compensation was awarded.

14. Over all, the compensation awarded by the Tribunal is just and reasonable. The respondents 1 to 5/claimants have also not challenged the finding on the quantum of compensation. Therefore, in the facts and circumstances of the case, this Court is of the view that the compensation awarded by the Tribunal does not call for interference, and hence, the appeal is liable to be dismissed.

15. It is submitted by the learned counsel on either side that the appellant has deposited the entire compensation amount as per the order of this Court dated 22.04.2014. The respondents 1 to 5/claimants are permitted to withdraw the compensation amount, less the amount already



C.M.A.(MD)No.439 of 2014

withdrawn by them, by filing a suitable application as per the apportionment fixed by the Tribunal.

16. In fine, this appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

05.09.2024

Index : Yes / No
Neutral Citation : Yes / No
CM

To
1.Motor Accident Claims Tribunal
(Additional District Court), Virudhunagar.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,Madurai.



WEB COPY



C.M.A.(MD)No.439 of 2014

SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)No.439 of 2014
and M.P(MD)No.4 of 2014

05.09.2024