



C.M.A.(MD).No.435 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.435 of 2018

and

C.M.P.(MD) No.5351 of 2018

Iffco-Tokio General Insurance Company Limited,
Tulsi Chambers, III Floor,
195, TV.Samy Road,
West R.S.Puram,
Coimbatore -2.

... Appellant/2nd Respondent

-VS-

1. Panchavarnam

2. Minor Chitra

3. Minor Logeswari

4. Minor Dhanalakshmi

5. Malathy

6. Kalimuthu

... Respondents 1 to 6/
Petitioners 1 to 6

(Minor Respondents 2 to 4 are represented
by their guardian/mother first respondent
herein)

7. Jayaraman

... 7th Respondent/1st Respondent



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 05.12.2017 passed in M.C.O.P.No.1256 of 2013, on the file of the Motor Accident Claims Tribunal, Special District Judge, Thiruchirappalli.

For Appellant : Mr.V.Sakthivel

For R1 to R4 : Mr.K.Govindarajan

For R5 : No appearance

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company, challenging the award passed in M.C.O.P.No. 1256 of 2013, on the file of the Motor Accident Claims Tribunal, Special District Court, Trichirappalli.

2. According to the claimants, the deceased was travelling as a pillion rider in a two wheeler, which was driven by one Subramani, on 18.11.2005. While they were travelling, an unidentified lorry came in a rash and negligent manner, without dimming the light, in the opposite side. Hence, the rider of the two wheeler lost his control and the pillion rider had fallen down and died



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on the spot. Hence, the legal heirs have prayed for a compensation of Rs.7,00,000/- (Rupees Seven Lakhs only).

3. The Insurance Company of the two wheeler has filed a counter contending that the accident has taken place only due to the negligence on the part of the rider of the two wheeler and therefore, they are not liable to pay any compensation.

4. The Tribunal, after considering the oral and documentary evidence on record, the accident has taken place only due to the negligence on the part of the rider of the two wheeler, viz., Subramani. The Tribunal has further found that the deceased was working as a Mosaic Worker and earning monthly salary at Rs.5,000/-. The Tribunal has proceeded to deduct 1/4th towards personal expenses and applied multiplier of “15” and ultimately arrived at a sum of Rs.7,20,000/- towards loss of dependency. The Tribunal has further awarded a sum of Rs.10,000/- towards funeral and Transportation Charges, a sum of Rs.2,00,000/- has been awarded towards loss of love and affection for the petitioners and a sum of Rs.50,000/- towards loss of consortium. In total, a sum of Rs.9,80,000/- has been awarded. This award is under challenge in the present appeal filed by the Insurance Company.



6. Per contra, the learned counsel appearing for the respondents 1 to 4 herein had contended that the Tribunal has not taken into consideration the fact that the accident has taken place in the year 2005. The Tribunal ought to have fixed a higher amount towards notional income. He further contended that no amount has been awarded towards future prospects. Therefore, considering the totality of the circumstances, the award of the Tribunal is reasonable and it is not called for any interference.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.



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8. A perusal of the claim petition as well as the award passed by the Tribunal reveals that the Tribunal has taken a sum of Rs.5,000/- towards notional income and has deducted 1/4th towards personal expenses and has applied the correct multiplier to arrive at a correct compensation under the head of loss of income and under the other conventional heads also reasonable amount has been awarded. Though it appears that the award amount under the head of loss of love and affection and loss of consortium are on the higher side, considering the fact that no amount has been awarded under the head of future prospects, this Court is not inclined to entertain the appeal.

9. In view of the above said facts, there are no merits in the appeal. Accordingly, this Civil Miscellaneous Appeal stands dismissed and the award passed by the Tribunal is hereby confirmed. The appellant herein is directed to deposit the entire award amount as awarded by the Tribunal within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the said claimants are entitled to withdraw their respective shares along with accrued interest and costs as apportioned by the Tribunal. In respect of the minor claimants/respondents 2 to 4, the amount shall be



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deposited in a Nationalized Bank till they attain majority and the guardian of the minor claimant is permitted to withdraw the interest once in three months.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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(2/2)

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accident Claims Tribunal,
Special District Court,
Thiruchirappalli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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