



C.M.A.(MD) No.957 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.957 of 2024

and

C.M.P.(MD) No.10091 of 2024

The New India Assurance Company Limited,
New Hospital Road,
Trichy-12,
through its Branch Manager.

... Appellant

Vs.

1.A.R.Valliappan

2.V.Meenal
W/o.A.R.Valliappan

3.T.Vellamuthu
S/o.Thangavel

4.T.Vellaichamy
S/o.Thangavel

... Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 praying to set aside the Award and Decree dated 14.11.2011 passed by the Motor Accidents Claims Tribunal [Sub Court], Devakottai in M.C.O.P.No.80 of 2017.



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For Appellant : Mr.K.Murugesan

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J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company, against the Judgment and Decree dated 14.11.2011 passed by the Motor Accidents Claims Tribunal [Sub Court], Devakottai in M.C.O.P.No.80 of 2017.

2. The first and second respondents herein had filed a claim petition before the Motor Accidents Claims Tribunal [Sub Court], Devakottai in M.C.O.P.No.80 of 2017, against the third and fourth respondents and the appellant Insurance Company, stating that the third respondent herein had driven a lorry bearing Reg. No.TCP 8543 in a rash and negligent manner and caused death of their minor son.

3. The third and fourth respondents herein who are the driver and owner of the vehicle had filed counter affidavit denying the averments made in the claim petition filed by the first and second respondents/claimants and had stated that the accident did not take place due to the negligence of the driver of the vehicle.



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4. The appellant Insurance Company which was shown as the third respondent in the claim petition filed their objection stating that the accident was not due to the negligence of the driver.

5. The first and second respondents/claimants had examined the second respondent as P.W.1 and marked Exhibits A1 to A5 before the Tribunal.

6. The Tribunal after considering the oral and documentary evidences had held that the accident took place due to the negligent driving of the third respondent herein; that therefore, the appellant being the insurer of the vehicle was liable to pay compensation and had fixed the total compensation at Rs.4,69,200/- together with interest at the rate of 6% from the date the claim petition till the date of realization and costs.

7. The instant appeal has been filed by the Insurance Company challenging the quantum of the compensation.



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8. The learned counsel for the appellant Insurance Company submitted that they were not aggrieved with the finding of negligence and their challenge is only with regard to compensation awarded by the Tribunal; that the notional income fixed by the Tribunal was on the higher side; that the multiplier method was not in accordance with the Judgment of the Hon'ble Supreme Court in the case of **Sarla Verma (Smt) vs Delhi Transport Corporation & Anr.**, reported in **2009 (6) SCC 121**; and that the compensation awarded by the Tribunal under the other heads was also excessive.

9. This Court carefully considered the submission made by the learned counsel for the appellant Insurance Company and the Award of the Tribunal.

10. This Court finds that the Tribunal has awarded a sum of Rs.3,60,000/- under the head of “pecuniary loss” by fixing Rs.3,000/- as notional income of the deceased minor son of the first and second respondents/claimants. The deceased minor child was 13 years old at the time of death. In the facts and circumstance of this case, this Court is of



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the view that the notional income fixed by the Tribunal is just and reasonable.

11. The compensation under the other heads namely, transportation charges, funeral expenses, for damages to cloths, and for loss of love and affection, totaling to Rs.1,09,200/- and the total compensation awarded by the Tribunal is just and reasonable and no interference is called for. Therefore, this Civil Miscellaneous Appeal is liable to be dismissed.

12. The appellant Insurance Company is directed to deposit the compensation amount together with interest accrued thereon and costs, after deducting the amount already deposited by it, if any, within a period of 6 weeks from the date of receipt of a copy of this order.

13. The first and second respondents/claimants are permitted to withdraw the amount together with interest and costs, in the same proportion ordered by the Tribunal, after deducting the amount already withdrawn, if any, by filing appropriate application before the Tribunal.



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14. In the result, this Civil Miscellaneous Appeal stands dismissed.

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No costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

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Copy To:

The Sub Judge,
Motor Accidents Claims Tribunal,
Devakottai,
Sivagangai District.



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SUNDER MOHAN, J.

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