



C.M.A(MD)No.770 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A(MD)No.770 of 2023

The Manager,
Reliance General Insurance Company Limited,
141/3, First Floor, New By-pass Road,
M.P.Sharathi Nagar,
Vellore-6332 012.

... Appellant/2nd Respondent

-Vs-

1.Mangayarkarasi
2.Minor Saishree
3.Malika
4.Subramani
(Minor 2nd respondent is represented
by her mother and natural guardian
the first respondent)

... Respondents1 to 4
/Claimants

5.Elizabeth

... 5th Respondent/1st Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1998, as against the award dated 08.03.2023 passed in M.C.O.P.No.528 of 2021 by the Motor Accidents Claims Tribunal/ Principal District Court, Karur.



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For Appellant : Mr.J.S.Murali
For R1 to R4 : No appearance
For R5 : Mr.N.Mohan

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the second respondent/Insurance Company, against the award dated 08.03.2023 passed in M.C.O.P.No.528 of 2021 by the MACT/Principal District Court, Karur,.

2.Heard the learned counsel for the appellant.

3.This appeal is focussed on the question of liability and quantum.

4.At trial, on the claimant's side, two witnesses were examined and sixteen documents were marked. On the respondent's side, no evidence was let in.



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5.P.W.2 is the ocular witness, who has spoken about the accident the evidence of P.W.2(Muthusamy @ Muthaian), it is inferable that on 05.03.2021 at about 08.30 p.m., while P.W.2 had been walking along Thennilai - Chinnatharapuram road, the deceased was proceeding in his two wheeler(TN-37-CC-7849) from south to northern direction on the left side of the road, a four wheeler Tempo (Tn-88-H-1157)came towards southern side in a rash and negligent manner and hit on the aforesaid two wheeler. Due to the said impact, the rider of the two wheeler Gowthaman sustained serious injuries and he was sent to the hospital in ambulance. He came to know that the injured succumbed to the injuries on the way to the hospital.

6.During his cross-examination, no details advantageous to the appellant was elicited and based on the ocular evidence of P.W.2, the Tribunal has concluded that it is because of the rash and negligent driving of the driver of Tempo Vehicle, the accident happened and the liability is fastened on the owner of the vehicle, first respondent and its insurer (R2). The said findings, does not suffer from infirmity or perversity.



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7.Next ground raised in this appeal is quantum. It is the evidence of P.W.1 that the deceased was aged about 25 years and he was earning Rs.25,000/ per month by working as painter. As per Ex.P.2-Post mortem Certificate, his age is fixed at 25 years. The date of the accident is 05.03.2021. The Tribunal has fixed the notional income of the deceased at Rs.13,000/-. The Hon'ble Supreme Court has standardized the details of the future prospects while computing the monthly income in **National Insurance Company Vs Pranay Sethi and others**, reported in **2017(2)TNMAC 609(SC)**. For the persons below 40 years 40% has to be added ($13,000/ + 40\% = 18,200/-$). As the claimants are four in numbers, $1/4^{\text{th}}$ was deducted for personal and living expenses. For loss of income, based on the aforesaid details, the Tribunal arrived at Rs.29,48,400/-, rounded off to Rs.29,50,000/- and for loss of consortium to the first claimant, an amount of Rs.44,000/-, for loss of estate and for funeral expenses Rs.16,500/- was granted under each head. The Tribunal granted a sum of Rs.30,27,000/- as compensation.

8.The learned counsel for the appellant would contend that as per Ex.P.8-legal heir certificate, only the names of the wife and parents are



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given and minor child name is not found. The legal heir certificate would have been obtained by the claimants. Therefore, this Court does not find any force in the arguments of the learned counsel for appellant. Hence, as per the law laid down by the Hon'ble Supreme Court in ***Sarala Varma and others Vs Delhi Transport Corporation and another***, reported in **2009(2) TNMAC 1**, 1/4th is to be deducted for personal and living expenses of the deceased as the claimants are four in numbers.

9.As regards the quantum also, this Court finds no good reasons to disturb the findings of the Tribunal.

10.Based on the aforesaid discussions and observations, this Court does not find any merits in the appeal. The Civil Miscellaneous Appeal stands dismissed.

11.The Insurance Company/appellant is directed to deposit the award amount of Rs.30,27,000/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim



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petition till the date of deposit to the credit of M.C.O.P.No.528 of 2021 on the file of Motor Accidents Claims Tribunal /Principal District Court, Karur, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

12.On such deposit being made, the respondents 1, 3 and 4/claimants are permitted to withdraw their shares along with interest and costs as apportioned by the Tribunal, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. As the second respondent/claimant is a minor, the Tribunal shall deposit the share of the minor claimant in a Fixed Deposit in any one of the Nationalized Banks, till the minor claimant attains majority. The guardian of the minor claimant is permitted to withdraw the interest accrued thereon once in three months directly from the bank. No costs.

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NCC:Yes/No

Index:Yes/No

Internet::Yes/No



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To

1.The Motor Accidents Claims Tribunal,
Principal District Court,
Karur.



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R. KALAIMATHI,J.

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