

C.M.A.No.2004 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.02.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**C.M.A.No.2004 of 2022
and
C.M.P.No.15256 of 2022**

United India Insurance Company Ltd.,
146-N, Kumar Complex,
Thiruchengodu.

... Appellant

-Vs-

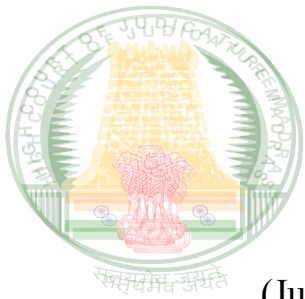
1. Santhi
2. Minor Nithin
3. Palaniyammal
4. Muthusamy
5. Santhakumari

... Respondents

PRAYER : Appeal under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.635 of 2009 dated 11.06.2018 on the file of the Motor Accidents Claims Tribunal, Sub Court, Sankari.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.C.Paraneedharan for R1 to R4



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J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

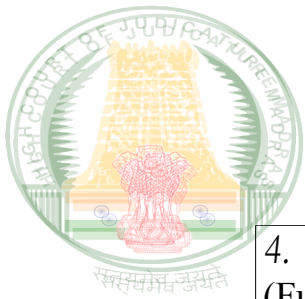
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This civil miscellaneous appeal has arisen out of the award passed by the Motor Accidents Claims Tribunal, Sub Court, Sankari dated 11.06.2018 made in M.C.O.P.No.635 of 2009.

2. Due to road accident taken place on 14.02.2006, one Subramaniyam died at Sankrar Bus Stand, Jansi District, Uttar Pradesh. Pursuant to the said road accident since the said Subramaniyam died, the legal heirs, i.e., wife, son, father and mother of the deceased filed the said MCOP seeking a compensation of Rs.20,00,000/-. The trial Court having considered the evidence adduced before it, has come to the conclusion that the claimants are entitled to get the compensation and accordingly, the compensation was fixed to the following effect:

கணக்கீடு:

4. எதிர்கால பொருளீட்டு திறன் (Future Prospects)	ரூ.28,35,000.00
2. வாழ்க்கை துணை இழப்பு	ரூ.00,40,000.00
3. 1 முதல் 4 மனுதாரர்களுக்கு பாசம் மற்றும் பற்றுக்கான இழப்பு (Loss of Love and affection)	ரூ.03,00,000.00
4. போக்குவரத்து செலவினம் (Transportation charges)	ரூ.00,10,000.00



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4. எதிர்கால பொருளீட்டு திறன் (Future Prospects)	ரூ.28,35,000.00
5.சொத்துக்கான இழப்பு (Loss of Estate)	ரூ.00,15,000.00
6. கர்மகாரிய செலவினம் (Funeral Expenses)	ரூ.00,15,000.00
மொத்தம்	ரூ.32,15,000,00

3. Questioning the liability as well as the quantum, the Insurance Company has filed the present appeal.

4. Heard Mr.S.Arun Kumar, learned counsel appearing for the appellant / Insurance Company and Mr.C.Paraneedharan, learned counsel appearing for the respondents 1 to 4.

5. When the accident took place, the said Subramaniyam travelled in the two wheeler with Registration No.TN-34-A-1885 as a pillion rider, there is no proof to state that the vehicle which was insured with the appellant / Insurance Company was involved in the alleged accident. It is the case of the appellant / Insurance Company that as per FIR registered by the Police, there was no eye witness to the accident and when the Police went to the spot of the accident, the said Subramaniyam already died and was lying on the road and therefore, his body was recovered and taken to the Hospital for post-mortem. When that



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being so, the version given by the claimants side that the accident had taken place when the said Subramaniam travelled as a pillion rider of the two wheeler and that was the vehicle insured with the appellant / Insurance Company is not supported by evidence and hence, the very liability itself questioned, therefore, the learned counsel for the appellant / Insurance Company seeks indulgence of this Court.

6. We have gone through the award impugned and also the evidence filed in support of the case.

7. Insofar as the petitioners' side, i.e., claimants' side, three people were examined, out of which, P.W.3 one Ramesh deposed before the trial Court stating that, on 14.02.2006, at about 09.10 pm, when he was standing at the bus stand in Sankrar Bus Stand, Jansi District, Uttar Pradesh that the deceased Subramaniyam was sitting behind the two wheeler with Registration No.TN-34-A-1885 Suzuki motor bike and when the vehicle came nearer to the place where P.W.3 was standing, the person who was riding the vehicle came in a rash and negligent manner due to which both were fell down, because of the accident the deceased Subramaniyam sustained multiple injuries and thereafter, the deceased was taken to the hospital where it was declared that he is dead.

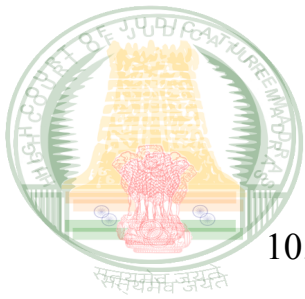


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Thereafter the Police enquired him and in the Court also he has deposed in the cross-examination stating all these factors.

8. When P.W.3 being the eye witness has deposed before the Court and the Court has accepted the said evidence, it can be stated that the accident occurred because of the rash and negligent manner of the rider who was riding the motor bike where the deceased was the pillion rider.

9. In this context, even though Mr.S.Arun Kumar, learned counsel appearing for the appellant / Insurance Company has filed the investigation report of the Insurance Company where yet another version has been placed, the Court cannot give weightage to the said report as there has absolutely been no eye witness to arrive at such a conclusion as has been stated in the investigation report filed by the Insurance Company, hence we have no hesitation in holding that the view taken by the trial Court that there has been liability on the part of the Insurance Company to pay the compensation because the accident had taken place only due to the vehicle which was insured to the Insurance Company is fully justified with evidence, hence with regard to the ground of liability is concerned, the plea raised by the learned counsel for the appellant / Insurance Company has to be rejected, accordingly it is rejected.



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10. Insofar as the quantum is concerned, the quantum fixed by taking the income of the deceased at Rs.15,000/- out of which 40% future prospects have been added and 1/4th of the income has been deducted for his personal expenses and the multiplier '15' was employed, all together, the 'loss of earnings' would come to Rs.28,35,000/- which also is justified. On the other head for wife consortium, Rs.40,000/- was awarded, for 'transport charges', Rs.10,000/- was awarded, for 'loss of estate', Rs.15,000/- was awarded, for 'funeral expenses', Rs.15,000/- was awarded, under these heads also, what has been awarded by the trial Court do not require any interference. However, insofar as the 'love and affection' for the son and the parents, a sum of Rs.3,00,000/-, each Rs.1,00,000/- has been awarded, but as per the guidelines given by the various judgement of the Court, under the 'loss of love and affection', a maximum of Rs.40,000/- could be awarded. To that extent, Rs.3,00,000/- awarded under the head under 'loss of love and affection' is reduced to Rs.1,20,000/-, i.e., Rs.40,000/- each for three dependents. If this Rs.1,80,000/- is deducted out of the total amount of Rs.32,15,000/-, it comes to Rs.30,35,000/-.

11. The modified award amount of Rs.30,35,000/-, the respondents are entitled to get. Resultantly, this Civil Miscellaneous Appeal is allowed in part accordingly. The said award amount shall be deposited by the appellant /



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Insurance Company by deducting the amount, if any, already deposited in the

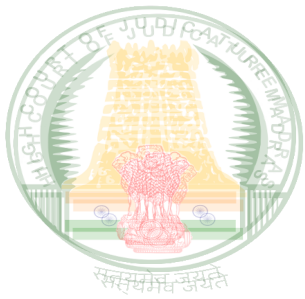
trial Court within a period of two months from the date of receipt of a copy of this judgment. On such deposit, it is open to the claimants to withdraw the same as per the apportionment ordered by the Tribunal. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (A.D.M.C., J.)
18.02.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji

To

1. The Motor Accidents Claims Tribunal,
Sub Court,
Sankari.
2. The Section Officer,
V.R. Section,
High Court,
Chennai.



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