



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA (MD)No.976 of 2021 &

CMP (MD)No.9247 of 2021

RELIANCE GENERAL INSURANCE COMPANY LTD,
2ND FLOOR, DOOR NO.12, H 2035,
MAIN ROAD, ANNA NAGAR WEST,
CHENNAI-600 101
REP THROUGH THE LEGAL OFFICER
TP CLAIMS)

... APPELLANT/RESPONDENT NO.2

Vs

1.K.NATCHIYAR
K.VEERALAKSHMI (DIED)
2.K.SUBASH
3.K.DEVI

... RESPONDENTS NO.1 & 2/
PETITIONERS
... RESPONDENT NO.3/
RESPONDENT NO.1

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside Judgment and decree dated 20.07.2021 in MCOP.No.164/2019 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court, Theni by allowing this appeal.

For Appellant : Mr.V.Sakthivel
For Respondents : Mr.K.Suresh Kumar for R1 & R2
Notice to R3 - dispensed with

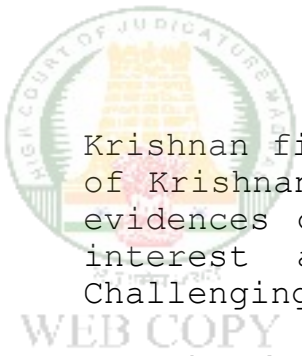
J U D G M E N T

The appellant filed this appeal against the Judgment and Decree dated 20.07.2021 in MCOP.No.164/2019 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court, Theni.

2. On 10.05.2019, when the deceased Krishnan was walking along Theni - Aundipatty main road to give lunch to his daughter, at about 01.30 pm, near Arulmurugan Chicken and Mutton Stall, a private bus bearing Registration No.TN 88 B 5049, driven by its driver in a rash and negligent manner, hit him, as a result of which, the deceased sustained grievous injuries and died in the Hospital.

3. The claimants, who are the wife and children of the deceased

<https://hcservices.ecourts.gov.in/hcservices/>



Krishnan filed MCOP.No.164/2019 claiming compensation for the demise of Krishnan. The Tribunal after analysing the oral and documentary evidences on record, awarded a sum of Rs.20,30,000/- together with interest at the rate of 7.25% per annum, as compensation. Challenging the said order, the appellant has preferred this appeal.

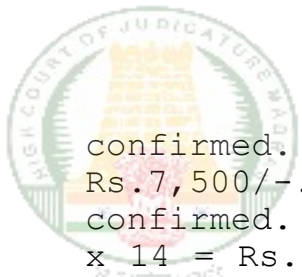
4. The learned counsel for the appellant would submit that the deceased Krishnan suddenly crossed the road without noticing the on coming vehicle and hence, contributory negligence ought to be fixed on the part of the deceased. The respondents 1 and 2 / claimants have not adduced any proof to prove the income of the deceased. The Tribunal was wrong in fixing the monthly income of the deceased as Rs.14,000/-. The quantum of compensation awarded by the Tribunal is on the higher side and it must be reduced.

5. The learned counsel for the respondents 1 and 2 submitted that the Tribunal after taking into consideration all the materials on record, awarded just compensation and fixed the negligence on the part of the driver of the bus and the same need not be disturbed.

6. Heard both sides and perused the materials available on record.

7. A perusal of the records shows that the First Information Report marked as Ex.P1 was registered against the driver of the private bus. No contra evidence was adduced by the Insurance Company to show that the negligence is on the part of the deceased. Even the driver of the bus was not examined before the Tribunal. Therefore, in the absence of any contra evidence, the negligence fixed by the Tribunal on the part of the driver of the private bus is hereby confirmed and the Insurance Company being the insurer of the offending vehicle is liable to compensate the respondents 1 and 2 / claimants.

8. As far as the quantum of compensation is concerned, the respondents 1 and 2 / claimants have contended that the deceased was working as a Barber, earning a sum of Rs.15,000/- per month. However, they have not filed any documents to prove the same. The accident is of the year 2019 and the deceased was aged 45 years on the date of accident. Hence, the monthly income fixed by the Tribunal at Rs.14,000/- is on the higher side. Considering the avocation, age and year of the accident, this Court is of the opinion that fixing the monthly notional income at Rs.9,000/- would be reasonable. As per the decision of the Hon'ble Supreme Court in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, 25% added by the Tribunal towards the future prospects of the deceased is hereby confirmed. Therefore, Rs.9,000/- + Rs.2,250/- (25% of Rs.9,000/-) = Rs.11,250/-. Since there are two dependants, 1/3rd of the income deducted by the Tribunal towards personal expenses of the deceased is hereby



confirmed. Hence, it would amount to Rs.11,250/- x 1/3 deduction = Rs.7,500/-. The multiplier 14 adopted by the Tribunal is hereby confirmed. Therefore, loss of income would come to Rs.7,500/- x 12 x 14 = Rs.12,60,000/-. The Tribunal had awarded Rs.40,000/- to the 1st respondent towards loss of consortium and it is hereby confirmed. No amount was awarded by the Tribunal towards loss of love and affection to the 2nd respondent and hence a sum of Rs.40,000/- is awarded towards the same. A sum of Rs.15,000/- awarded by the Tribunal towards loss of estate is hereby confirmed. The Tribunal has awarded Rs.15,000/- towards future expenses. This is a death case and hence, there is no question of awarding compensation towards future expenses. However, no compensation was granted by the Tribunal towards funeral expenses. Hence, Rs.15,000/- awarded towards the head future expenses is hereby modified as funeral expenses. The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this court
1.	Loss of income	Rs.12,60,000/-
2.	Loss of consortium to R1	Rs.40,000/-
3.	Loss of love and affection to R2	Rs.40,000/-
4.	Funeral Expenses	Rs.15,000/-
5.	Loss of Estate	Rs.15,000/-
Total		Rs.13,70,000/-

9. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The quantum of compensation awarded by the Tribunal is reduced from Rs.20,30,000/- to Rs.13,70,000/- together with interest at the rate of 7.25% per annum.

(iii) The appellant / Insurance Company is directed to deposit the entire compensation amount i.e., Rs.13,70,000/- (less the amount already deposited, if any) together with interest at the rate of 7.25% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.164/2019 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court, Theni within a period of six weeks from the date of receipt of a copy of this order

(iv) On such deposit being made, the respondents 1 and 2 / claimants are at liberty to withdraw the same in the following apportionment after following due process of law. The first respondent is entitled to a sum of Rs.8,70,000/- together with



proportionate interest and costs. The second respondent is entitled to a sum of Rs.5,00,000/- together with proportionate interest and costs.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (CS-III)

/ /2022

Sub Assistant Registrar(CS)

mbi

To

The Motor Accident Claims Tribunal,
Additional District Judge,
Fast Track Court, Theni.

Copy to

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

+1 CC to M/s.K.SURESH KUMAR, Advocate (SR-2646[F] dated 27/01/2022)

+1 CC to M/s.V.SAKTHIVEL, Advocate (SR-2871[F] dated 28/01/2022)

CMA (MD) No.976 of 2021
25.01.2022

KS (CO)

KB(28.02.2022) 4P 6C