



C.M.A. No. 2232 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.2232 of 2023

and

C.M.P.No.21378 of 2023

The Branch Manager,
Reliance General Insurance Company Limited,
'Kanagu Towers', 2nd Floor, Thillai Nagar main road,
Trichy.

... Appellants

Vs.

1.Seetha Lakshmi
2.Thangarasu
3.Seethalakshmi
4.Rajeswari
5.Rajesh Babu

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 16.07.2019 made in M.C.O.P. No.802 of 2015 on the file of Motor Accident Claims Tribunal, Principal District Court, Perambalur.



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For Appellant : Ms. C. Bhuvanasundari

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J U D G M E N T

The above appeal has been filed by the Insurance Company challenging the award of the Tribunal granting compensation to the respondents 1 to 4 herein.

2. The respondents 1 to 4 filed claim petition stating that on 08.07.2015 at about 4.30 pm, while the deceased was travelling as a pillion rider on the extreme left side of the road, a lorry belonging to the 5th respondent herein and insured with the appellant came in the opposite direction in a rash and negligent manner and dashed against the deceased, as a result of which the deceased sustained fatal injuries.

3. The fifth respondent herein remained ex parte before the Tribunal.

4. The appellant denied the manner of accident in a counter and stated that in any case, the compensation claimed by the Tribunal was excessive.



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WEB COPY 5. The respondents 1 to 4 examined PW.1 and PW.2 and marked Ex.P1 to Ex.P5. The appellant examined RW.1 and marked Ex.X1 to Ex.X3.

6. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place due to the negligence of the 5th respondent and directed the appellant, being the insurer to pay a compensation of Rs.18,84,400/- to the respondents 1 to 4.

7. The learned counsel for the appellant submitted that the Tribunal ought to have seen that the accident did not take place due to the negligence of the insured vehicle; and that the compensation awarded by the Tribunal is excessive in as much as instead of deducting 1/3rd towards personal expenses, the Tribunal had deducted 1/4th in computing compensation.

8. It is seen from the award of the Tribunal that the respondents 1 to 4 had examined eye witness to the accident. He had deposed that the accident took place only due to the negligence of the driver of the insured vehicle.



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The appellant had not let in any evidence to rebut the evidence let in on the side of respondents 1 to 4. The FIR was also registered against the driver of the offending vehicle. Therefore, this Court is of the view that the award of the Tribunal fixing the negligence on the driver of the offending vehicle insured with the appellant, is justified and no interference is called for.

9. As regards compensation, the only ground raised by the appellant is that instead of 1/3rd deduction towards personal expenses, the Tribunal had deducted 1/4th. This Court finds that the claimants are 4 in number including an unmarried younger sister of the deceased. Therefore, all the 4 were considered as dependants by the Tribunal and 1/4th has been deducted towards personal expenses of the deceased. There is no infirmity in this finding also.

10. For the aforesaid reasons, this Court is of the view that the award of the Tribunal is just and reasonable and hence, it is confirmed. The appeal is therefore, liable to be dismissed.



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WEB COPY 11. In the result, the Civil Miscellaneous Appeal stands dismissed confirming the award passed by the Tribunal. Consequently, connected miscellaneous petition is closed. No costs. The appellant / Insurance Company is directed to deposit the award amount fixed by the Tribunal, within a period of six weeks from the date of receipt of copy of this Judgment if not deposited earlier. On such deposit, the respondents 1 to 4 is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn, on the basis of apportionment fixed by the Tribunal.

22.09.2023

Index: Yes/No

Neutral Citation: Yes / No

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SUNDER MOHAN, J.

AT

To

- 1.The Motor Accident Claims Tribunal,
Principal District Court, Perambalur.
- 2.The Section Officer,
VR Section,
High Court, Madras.

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