



C.M.A.No.1525 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM:

MR.JUSTICE N.SESHASAYEE

C.M.A.No.1525 of 2022
and C.M.P.No.11350 of 2022

1.The United India Insurance Company Ltd.
Represented by its Branch Manager
Dharapuram 638 656

... Appellant

Vs.

1.Kumarathal
2.Balamani
3.Eswarn
4.Vivek Kirubha Sankar

... Respondents

PRAYER:This Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 17.12.2021 made in M.C.O.P.No.83 of 2019 on the file of Motor Accidents Claims Tribunal, Sub Court, Udumalaipet.

For appellant : Mr.C.Paranthaman

For respondents : Mr.B.Gopalakrishnan - R1 to R3



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JUDGMENT

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The Insurance Company which is arrayed as the 2nd respondent in M.C.O.P.No.83 of 2019 before Motor Accidents Claims Tribunal, Sub Court, Udumalaipet, is the appellant herein. The appeal raises a short issue regarding contributory negligence which is required to be attributed to the victim of the accident. On 17.09.2018 at around 6.30 p.m. the victim of the accident while riding his motorcycle bearing Registration No.TN41Y9306 along with his wife in the pillion, met with an accident and died. For his death his dependants filed a petition for compensation. The Tribunal had awarded Rs.9,65,000/- with interest at 7.5% p.a. This is now under challenge.

2.The learned counsel for the appellant submitted that it is an admitted fact as borne out in the testimony of P.W.1 that the victim neither possessed a valid and effective licence at the time of accident nor was he wearing a helmet. Therefore, in fitness of things the Tribunal ought to have made appropriate deduction towards contributory negligence of the victim.



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3.Per contra, the learned counsel for the claimants / respondents submitted that on conventional heads of compensation the compensation awarded by the Tribunal is not appropriate.

4.Heard both sides.

5.So far as contributory negligence is concerned, given the fact that the victim was without a valid licence and was also not wearing a helmet at the time of accident, this Court deems it appropriate to attribute 10% contributory negligence to it.

6.Turning to the compensation part of it, there is some merit in the submissions of the learned counsel for the respondents and these modifications are appropriate to be made as indicated below in the tabulation.

<i>Sl.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Loss of income and dependency (Rs.10,000/- x 12 x 7 = 8,40,000/-)	Rs.8,40,000/-
2.	Transport	Rs. 15,000/-



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<i>Sl.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
3	Loss of Consortium of first petitioner	Rs. 44,000/-
4	Loss of Love and Affection	Rs. 88,000/-
5	Funeral Expenses	Rs. 15,000/-
6.	Loss of Estate	Rs. 20,000/-
	Total	Rs.10,22,000/-

From the aforesaid sum, 10% may have to be deducted and the net value of the compensation is Rs.9,19,800/-.

7.In the result, the appeal is partly allowed.

(i)The compensation amount awarded by the Tribunal is reduced from Rs.9,65,000/- to 9,19,800/-.

(ii)This Court is informed that the appellant has deposited 50% of the compensation amount awarded by the Tribunal. It is now required to deposit the balance amount with interest at 7.5% to the credit of M.C.O.P.No.83 of 2019, on the file of Motor Accidents Claims Tribunal Sub Court, Udumalaipet, within a period of six (6) weeks from the date of receipt of a copy of this order.



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(iii) The enhanced compensation amount now awarded is directed to be divided in the same ratio in which the Tribunal has apportioned the compensation among the claimants.

(iv) The claimants are now permitted to withdraw their respective shares of the amount already deposited as apportioned by the Tribunal by filing appropriate application before the Tribunal as per existing rules.

(v) There is no order as to costs in this appeal. Consequently, the connected miscellaneous petition is closed.

15.12.2023

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Index : Yes / No

Neutral Citation

To.

The Motor Accidents Claims Tribunal
Sub Court,

5/6



Udumalaipet.

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N.SESHASAYEE, J.

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