



C.M.A.No.680 of 2020 And
Cross Objection No.65 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.No.680 of 2020
And
C.M.P.No.4093 of 2020
And
Cross Objection No.65 of 2021**

C.M.A.No.680 of 2020:

The Branch Manager,
M/s.United India Insurance Company Limited
Branch Office, 20/1, K.M.R. Complex,
1st Floor, Bypass Road, Ambur,
Vellore District, Pin – 635 802.

... Appellant

Vs.

1.Venkatesh
2.Parijatha
3.Ramya
4.Josephine Christiana

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 30.04.2019 made in M.C.O.P.No.324 of 2017 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Hosur.

For Appellant : Mr.S.Arun Kumar
For Respondents : Mr.S.P.Yuvaraj for R1 to R3
R4 – No appearance



C.M.A.No.680 of 2020 And
Cross Objection No.65 of 2021

WEB COPY

Cross Objection No.65 of 2021:

1.Venkatesh
2.Parijatha
3.Ramya

... Cross Objectors

Vs.

1.The Branch Manager,
M/s.United India Insurance Company Limited
Branch Office, 20/1, K.M.R. Complex,
1st Floor, Bypass Road, Ambur,
Vellore District – 635 802.

2.Josephine Christiana

... Respondents

Prayer:

Cross Objection filed under Order 41 Rule 22 of Civil Procedure Code, to enhance the compensation amount awarded in the judgment and decree dated 30.04.2019 made in M.C.O.P.No.324 of 2017 on the file of the Motor Accidents Claims Tribunal / Additional District Judge, Hosur.

For Cross Objectors : Mr.S.P.Yuvaraj
For Respondents : Mr.S.Arun Kumar for R1

COMMON JUDGMENT

The civil miscellaneous appeal as well as the cross objection have been filed against the judgment and decree dated 30.04.2019 in M.C.O.P.No.324 of 2017 on the file of the Motor Accident Claims



C.M.A.No.680 of 2020 And
Cross Objection No.65 of 2021

Tribunal/ Additional District Judge, Hosur.

WEB COPY

2.The second respondent before the Motor Accident Claims Tribunal is the appellant in the civil miscellaneous appeal and the petitioners before the Motor Accident Claims Tribunal are the cross objectors in the cross objection.

3.The brief facts of the case is that on 10.10.2015 at about 03.00p.m., the deceased Sabarish was travelling as a pillion rider in the two wheeler Bajaj Pulsar bearing Registration No.TN70/Q.4918 and one Bharath @ M.Bharathkumar was riding the said vehicle. They were proceeding in Krishnagiri to Hosur National Highways Road, towards Hosur at Pathakota Diversion Road near Krishna Dhaba Hotel, Kamandhoddi and in front of Sakthi Granite Company. At that time a Taurus lorry bearing Registration No.TN.23/BL.6782 came in a rash and negligent manner and suddenly stopped in front of the two wheeler without any signal or indication, due to which, the motorcycle which was coming behind the lorry dashed against the backside of the lorry and both the rider and pillion rider of the motorcycle died on the spot.



C.M.A.No.680 of 2020 And
Cross Objection No.65 of 2021

WEB COPY

4. Thereafter, the dependants of the deceased Sabarish/ respondents 1 to 3 in the civil miscellaneous appeal/ cross objectors in cross objection (hereinafter referred to as 'claimants') filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.30 Lakhs. After adjudication, the Motor Accidents Claims Tribunal, awarded a sum of Rs.18,84,400/- as compensation to the claimants and directed the Insurance Company to pay the compensation amount with interest at the rate of 7.5% p.a. from the date of petition till the date of realization and proportionate costs.

5. The learned counsel appearing for the Insurance Company submitted that the deceased travelled as a pillion rider in the motorcycle and due to the rash and negligent driving of the rider of the motorcycle the accident happened. Hence, fastening the entire liability as against the owner of the lorry and its insurer is not sustainable one. Further, at the time of death the deceased was studying 1st year B.Sc. and hence the quantum of compensation awarded is also liable to be interfered with.

6. Per contra, the learned counsel appearing for the Cross



C.M.A.No.680 of 2020 And
Cross Objection No.65 of 2021

Objectors submitted that in order to prove the negligence aspect, the claimants examined P.W.3 – eye witness and based on the evidence let in by the eye witness the Tribunal fastened the liability as against the owner of the lorry and its insurer, which warrants no interference. The learned counsel further submitted that the claimants are entitled for enhancement in compensation.

7. Heard the learned counsel appearing for the Insurance Company as well as the learned counsel appearing for the Cross Objectors and perused the materials available on record.

8. It is alleged that on 10.10.2015 at about 03.00 p.m., the deceased Sabarish was travelling as a pillion rider in the two wheeler and one Bharath @ M.Bharathkumar was riding the said vehicle. They were proceeding in Krishnagiri to Hosur National Highways Road, towards Hosur at Pathakota Diversion Road near Krishna Dhaba Hotel, Kamandhoddi and in front of Sakthi Granite Company. At that time a Taurus lorry came in a rash and negligent manner and suddenly stopped in front of the two wheeler without any signal or indication, due to which, the motorcycle which was coming behind the lorry dashed against the backside of the lorry and both the rider and



C.M.A.No.680 of 2020 And
Cross Objection No.65 of 2021

WEB COPY

pillion rider of the motorcycle died on the spot.

9.Inorder to prove the negligence aspect, the claimants have examined P.W.3 – eye witness and no contra evidence was let in with regard to the negligence aspect. Hence, based on the evidence let in by the eye witness the Tribunal fastened the liability as against the owner of the lorry and its insurer, which warrants no interference.

10.Coming to the question of quantum of compensation, the amount awarded by the tribunal, in the opinion of this Court, is just and reasonable and the same warrants no interference.

11.The civil miscellaneous appeal as well as the cross objection are dismissed. The judgment and decree dated 30.04.2019 passed in M.C.O.P.No.324 of 2017 by the Motor Accidents Claims Tribunal/ Additional District Judge, Hosur, is confirmed.

12.The Insurance Company is directed to deposit the entire award amount before the Motor Accident Claims Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such



C.M.A.No.680 of 2020 And
Cross Objection No.65 of 2021

deposit being
WEB COPY

made, the Cross Objectors/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal.

13.The civil miscellaneous appeal as well as the cross objection are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

27.11.2023

pri

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

To

1.The Motor Accident Claims Tribunal/
Additional District Judge,
Hosur.



WEB COPY



C.M.A.No.680 of 2020 And
Cross Objection No.65 of 2021

M.DHANDAPANI,J.
pri

**C.M.A.No.680 of 2020
And
C.M.P.No.4093 of 2020
And
Cross Objection No.65 of 2021**

27.11.2023



WEB COPY



C.M.A.No.680 of 2020 And
Cross Objection No.65 of 2021