



WEB COPY



C.M.A.No.2579 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2579 of 2023

And

C.M.P.No.23767 of 2023

The Branch Manager
United India Insurance Co. Ltd.,
Branch Office,
14/1-77-B, Salem Main Road,
Pudhuchampalli,
Ram Nagar Post,
Mettur Dam – 636 401.

... Appellant

Vs.

1.Gowri
2.Minor.Mohan
3.Minor.Elavarasan
4.Minor.Sandiya

(Minors are rep. by their
NF & Mother Gowri)

5.Thirupathy
6.Nagamma
7.S.Amsa

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.09.2015 made in M.C.O.P.No.1014 of 2013, on the file of the Motor Accidents Claims Tribunal (Special District Judge) at Krishnagiri.



C.M.A.No.2579 of 2023

For Appellant : M/s.I.Malar

WEB COPY

J U D G M E N T

The second respondent Insurance Company before the Motor Accidents Claims Tribunal, is the appellant herein. This appeal has been filed against the judgment and decree dated 30.09.2015 made in M.C.O.P.No.1014 of 2013, on the file of the Motor Accidents Claims Tribunal (Special District Judge) at Krishnagiri.

2.The brief facts of the case is that on 03.11.2013 at about 20 hours the deceased Krishnan was riding TVS Super XL (HD) moped bearing Registration No.TN 24/H.4482 on the left side of the road from Krishnagiri towards his house and one Sumathi was travelling as a pillion rider and when the vehicle was proceeding near Dhonnaiyan Kottai Diversion Road, they saw their relative Kaliappan walking on the left side of the road. Hence, the deceased Krishnan stopped the motor cycle. At that time, the driver of the Omni Bus bearing Registration No.TN 52/X.2799 belonging to the seventh respondent and insured with the appellant came from Chennai and proceeding towards Krishnagiri in a rash and negligent manner and dashed against the two wheeler on its back, due to which, the deceased Krishnan died on the spot and the said Sumathi and Kaliappan



C.M.A.No.2579 of 2023

sustained grievous injuries.

WEB COPY

3. Thereafter, the dependants of the deceased Krishnan/ respondents 1 to 6 filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.20 Lakhs. After adjudication, the Tribunal, awarded a sum of Rs.16,28,000/- as compensation to the claimants and directed that the respondents 1 and 2 in the claim petition/ seventh respondent and appellant herein shall jointly and severally deposit the compensation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and proportionate costs, within a period of 30 days, failing which, to pay interest at the rate of 9% till the date of deposit after the said period of 30 days. Aggrieved by the same, the appellant Insurance Company has filed this appeal.

4. The learned counsel appearing for the appellant submitted that the appellant has filed this appeal aggrieved by the quantum of compensation awarded by the Tribunal. When there is no proof available for the income of the deceased, the Tribunal fixed Rs.7,500/- as monthly salary of the deceased and adopted the multiplier of 18 and awarded compensation which is highly excessive.



C.M.A.No.2579 of 2023

The amount awarded under the other heads are also high.

WEB COPY

5.Heard the learned counsel appearing for the appellant. Since this Court is not inclined to pass any adverse order as against the respondents, notice to the respondents is dispensed with.

6.Admittedly, on 03.11.2013 at about 20 hours the deceased Krishnan was riding in a motor cycle on the left side of the road from Krishnagiri towards his house along with one Sumathi. When the vehicle was proceeding near Dhonnaiyan Kottai Diversion Road, they saw their relative Kaliappan walking on the left side of the road. Hence, the deceased Krishnan stopped the motor cycle. At that time, the driver of the Omni Bus belonging to the seventh respondent and insured with the appellant came from Chennai and proceeding towards Krishnagiri in a rash and negligent manner and dashed against the two wheeler on its back, due to which, the deceased Krishnan died on the spot.

7.The accident or the manner in which the accident took place are not disputed by the appellant. The liability is also not disputed. The appellant is only questioning the quantum of compensation



C.M.A.No.2579 of 2023

awarded by the Tribunal. This Court perused the impugned judgment. This Court is of the opinion that the multiplier adopted by the Tribunal is right and the amount awarded by the Tribunal, a sum of Rs.12,96,000/- for loss of earnings, Rs.2 Lakhs for loss of love and affection, Rs.1 Lakh for consortium, Rs.5,000/- for transportation, Rs.2,000/- for articles and Rs.25,000/- for funeral expenses, is just and reasonable and the impugned judgment and decree warrants no interference.

8.The civil miscellaneous appeal is dismissed. The decree and judgment dated 30.09.2015 made in M.C.O.P.No.1014 of 2013 by the Motor Accidents Claims Tribunal (Special District Judge) at Krishnagiri, is confirmed.

9.The appellant/ Insurance Company is directed to deposit the award amount with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the claimants/ respondents 1, 5 and 6 are permitted to withdraw their respective share as apportioned by the Tribunal, along with accrued



C.M.A.No.2579 of 2023

interest and proportionate costs, on making proper and necessary application before the Tribunal. The claimants/ respondents 2, 3 and 4 are permitted to withdraw their respective share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to their majority. If the claimants/ respondents 2, 3 and 4 are still minors, their shares shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until they attain majority and the interest derived from out of the said share of the minors shall be paid to the first claimant/ mother every quarter to be utilized for the welfare of the said minors.

10.The civil miscellaneous appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

19.10.2023

pri

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

6/7



C.M.A.No.2579 of 2023

1.The Motor Accidents Claims Tribunal
(Special District Judge) at Krishnagiri.

WEB COPY

M.DHANDAPANI,J.
pri

C.M.A.No.2579 of 2023
And
C.M.P.No.23767 of 2023

19.10.2023