



C.M.A.No.4658 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.4658 of 2019
and C.M.A.No.26359 of 2019

The Divisional Manager,
The Oriental Insurance Company Ltd.,
Divisional Office,
No.23-B, Ground Floor,
Arunagiri Complex, Bypass Road,
Hosur – 635 109.

Vs.

1.M.Saraswathi
2.M.Vasu
3.M.Arunagiri
4.N.Ravikumar
5.S.Raja

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 31.07.2015 passed in M.C.O.P.No.801 of 2013 on the file of the Motor Accident Claim Tribunal (Additional District Court), Krishnagiri.



C.M.A.No.4658 of 2019

WEB COPY

For Appellant : Mr.K.Vinod

For Respondents
For R1 to R3 : Mr.S.P.Yuvaraj

J U D G M E N T

This Civil Miscellaneous Appeal arises against the award passed by the learned Additional District Judge, Motor Accident Claims Tribunal, Krishnagiri, in M.C.O.P.No.801 of 2013 on 31.07.2015.

2. The appellant herein is the insurance company. On 16.11.2012 at about 8.00 hours, when Munirathinam (since deceased) son of K.Arunachalam was riding Hero Honda Motorcycle bearing Reg.No.TN-24-7701 in Kuppam to Krishnagiri road on the left side of the road slowly and cautiously observing the traffic rules and sounding horn, a Mahindra Jeep bearing Reg.No.KA-03-N-7302 came from the opposite direction in a rash, reckless and negligent manner and at an uncontrolled speed, without sounding horn and without adhering to the rules of the traffic, dashed on the two wheeler. Hence, the accident occurred, due to which, the said Munirathinam sustained injuries. Immediately,



C.M.A.No.4658 of 2019

he was taken to P.E.S. Medical College Hospital, Kuppam and admitted for treatment. In spite of treatment he died on 17.11.2012. Hence, the legal heirs of the deceased Munirathinam have filed claim petition, seeking compensation.

3. Before the Tribunal, on behalf of the claimant, P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P7 were marked and on the side of the respondents no one was examined and no document was marked.

4. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

(a) Loss of dependency	:	Rs.	10,53,000/-
(b) Loss of love and affection	:	Rs.	1,50,000/-(P1 to P3)
(c) Loss of Consortium	:	Rs.	1,00,000/-
(d) Medical bill Ex.P.7	:	Rs.	15,000/-
(e) Funeral expenses	:	Rs.	16,000/-

		Rs.	13,34,000/-

The said sum was directed to be paid along with interest at 7.5 % per annum from the date of petition till realization.



C.M.A.No.4658 of 2019

WEB COPY

5. The learned counsel for the appellant insurance company submits that the Tribunal erred in fixing the liability and in granting compensation of Rs.13,34,000/- towards loss of dependency, loss of love and affection, loss of consortium, medical expenses and funeral expenses, which are exorbitant. Hence, the liability has to be fixed at 50:50 ratio and the compensation awarded by the Tribunal has to be reduced to Rs.6,00,000/-.

6. Based on the FIR (Ex.P1) registered under Section 337 of IPC, the Tribunal has rightly fixed the liability on the appellant that the alleged accident occurred due to the rash and negligent driving of the driver of the respondent vehicle and hence, the appellant, being the insurer is liable to indemnify for the vehicle involved in the accident.

7. After going through the oral and documentary evidence, the Tribunal has awarded Rs.10,53,000/- towards loss of dependency, Rs.1,50,000/- towards loss of love and affection, Rs.1,00,000/- towards loss of consortium, Rs.15,000/- towards medical expenses and Rs.16,000/- towards funeral expenses, which appears to be just and proper and the same are hereby confirmed. Hence, nothing survives in this appeal for reduction of compensation.



C.M.A.No.4658 of 2019

WEB COPY

8. In the result,

(i) this Civil Miscellaneous Appeal is dismissed. No costs. Connected miscellaneous petition is closed. The appellant/Insurance company is directed to deposit the award amount of Rs.13,34,000/- together with interest at 7.5% per annum from the date of petition till the date of deposit as compensation.

(ii) On such deposit made by the appellant/Insurance Company, the claim Petitioners are entitled to get their share, as per the ratio of apportionment made by the Tribunal. The claim Petitioners are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

08.06.2023

Index : Yes/No

Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
The Motor Accident Claim Tribunal (Additional District Court),
Krishnagiri.



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C.M.A.No.4658 of 2019

A.A.NAKKIRAN.J,

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C.M.A.No.4658 of 2019

08.06.2023