



C.M.A. (MD)No.22 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.22 of 2023
and
C.M.P.(MD) No.219 of 2023

Sundar Singh

...Appellant/3rd Respondent

Vs.

1.Welsi Sathiya
2.Amirthamani
3.Alli
4.National Insurance Company Limited,
Through its Divisional Manager,
No.37-C, S.N,.High Road,
Tirunelveli.

...Respondents/Claimants

...Respondents/Petitioners

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and modify the award passed in order dated 28.07.2021 in M.C.O.P.No.426 of 2019 on the file of the Motor Accidents Claims Tribunal (3rd Additional District Judge), Tirunelveli, by enabling the appellant/3rd respondent to share the award with the first respondent /1st claimant and to set aside the order in respect of the second respondent/2nd claimant.

For Appellant : Mr. S.Baskar Mathuram



C.M.A. (MD)No.22 of 2023

For R4 : Mr.D.Sivaraman
For R2 : Mr.Marimuthu

JUDGMENT

This Civil Miscellaneous Appeal has been filed seeking to modify the award and decree made in M.C.O.P.No.426 of 2019 dated 28.07.2021 by the Motor Accidents Claims Tribunal (3rd Additional District Judge), Tirunelveli and to set aside the award in respect of the third respondent.

2.For the sake of convenience, the parties are referred to herein, as per their rank before the trial Court.

3.On 05.11.2018 at about 07.00 p.m., when the deceased was riding his two wheeler bearing Registration No.TN-76-Y-0790 on the Sankarankoil-Kovilpatti main road, met with an accident due to collusion with the offending vehicle bearing Registration No.TN-79-E-1027 and succumbed to injuries. The tribunal taking note of the income and age of the deceased has awarded the compensation as follows:



C.M.A. (MD)No.22 of 2023

WEB COPY

S.No.	Heads	Amount
1.	Loss of Income	Rs.41,00,400/-
2.	Funeral Expenses	Rs. 15,000/-
3.	Loss of Estate	Rs. 15,000/-
4.	Loss of Consortium	Rs. 40,000/-
	Total	Rs.41.70,400/-

4.Since the third respondent, father of the deceased has not filed any application claiming compensation on account of death his son, he was rightly arrayed as third respondent as per the amended Section 166 of the Motor Vehicles Act. He has filed counter affidavit before the tribunal making allegations against the second petitioner. In the entire counter affidavit, the only allegation is that the second petitioner, who is the wife of the third respondent, had developed illicit intimacy with one Koilpandi and she left the third respondent and the deceased in the year 2005. Therefore, he prayed for dismissal of the claim petition as against the second petitioner.

5.The tribunal after considering the oral and documentary evidence has found that since the third respondent also joined as legal heir and he is working as a teacher and he is not depending on the deceased, the compensation has not been



C.M.A. (MD)No.22 of 2023

apportioned in favour of the third respondent/appellant. Even, the third respondent is not aggrieved by such order. The only challenge that is made by the third respondent in this appeal is against the apportionment of a sum of Rs.6,70,400/- in favour of the second petitioner in the claim petition.

6.In the grounds of this appeal only, the appellant for the first time has claimed a sum of Rs.20,00,000/- towards his share. It is relevant to note that before the claim tribunal, he has not made any claim. His only stand before the claim tribunal is that no amount should be apportioned to his wife due to some matrimonial dispute between them. Such view of the matter, in the present appeal he cannot seek for apportionment of compensation in his favour for the simple reason that he is still serving as a teacher and he is not depending on the deceased. Accordingly, the contention of the appellant cannot be countenanced in the present appeal.

7.It is further to be noted that as against the award, neither the insurance company nor the claimants 1 and 2 have filed any appeal. They have satisfied with the award. Merely on the basis of some matrimonial dispute between the appellant and the second respondent, mother of the deceased, the right of the



C.M.A. (MD)No.22 of 2023

second respondent to claim compensation as class-I legal heir cannot be denied.

The matrimonial dispute and strained relationship cannot be brought into in a claim petition.

8.For the forgoing reasons, I do not find any merits in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2023

Index : Yes/No

Internet : Yes/No

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To

1.The Motor Accidents Claims Tribunal
(Third Additional District Court), Tirunelveli

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A. (MD)No.22 of 2023

N.SATHISH KUMAR, J.

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C.M.A.(MD)No.22 of 2023

07.03.2023