



**C.M.A(MD)No.198 of 2019**

**WEB COPY** BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN  
and  
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**C.M.A(MD)No.198 of 2019  
and  
C.M.P.(MD)No.2568 of 2019**

M/s.Reliance General Insurance  
Company Limited,  
Rep. Through its Branch Manager,  
Sri Meenakshi Plaza,  
I-Floor, Plot No.HIG 55, 80 Feet Road,  
Anna Nagar, Madurai 625 020.

... Appellant/ 2<sup>nd</sup> Respondent

-VS-

1.P.R.David Mani @ Subramanian

2.Tmt.S.Pushpam

3.Tmt.R.Shanthi

4.Minor R.Abinaya

5.Minor R.Sivabalan

... Respondents 1 to 5 / Petitioners

[Minor respondents 4 and 5 are rep. By  
their mother and natural guardian Tmt.R.Shanthi]



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6.M.A.Arokia Rahul

... 6<sup>th</sup> Respondent / 1<sup>st</sup> Respondent

**PRAYER:** Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, against the Fair and Decreetal order dated 16.02.2018 made in M.C.O.P.No.1809 of 2015 on the file of the Motor Accident Claims Tribunal (V Additional District Judge), Madurai.

For Appellant : Mr.S.Srinivasa Raghavan

For R2 to R5 : Mr.J.Barathan

### **JUDGMENT**

**[Order of the Court was made by RMT.TEEKAA RAMAN, J.]**

This Civil Miscellaneous Appeal is directed against the Fair and Decreetal order dated 16.02.2018 in M.C.O.P.No.1809 of 2015 on the file of the Motor Accident Claims Tribunal (V Additional District Judge), Madurai.

2. The Insurance Company is the appellant herein. The respondents 1 to 5 have preferred M.C.O.P.No.1809 of 2015 seeking compensation for the death of one Mr.S.Karthick in the road accident on 28.03.2015.



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**WEB COPY** 3. The offending vehicle is insured with the appellant/Insurance Company.

After trial, the learned Motor Accident Claims Tribunal (V Additional District Judge), Madurai, has held that the accident has taken place due to the rash and negligent driving of the driver of the offending vehicle, owned by the first respondent before the Tribunal insured with the second respondent before the Tribunal and accordingly, held that the owner of the offending vehicle and the Insurance Company are jointly and severally liable to pay the compensation and also computed the compensation at Rs.30,64,020/- along with interest 7.5% p.a. Hence, the appeal by the Insurance Company.

4. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents 2 to 5.

5. The learned counsel for the appellant would draw my attention to the evidence of P.W.2/the occurrence witness with regard to the plea of contributing negligence and also the quantum. The appeal is primarily preferred by the Insurance Company on the ground of contributory negligence and quantum of compensation.



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6. On perusal of the trial Court records, we find that the sixth respondent has not examined his driver namely, the driver of the offending vehicle to substantiate the plea of contributory negligence now projected by the Insurance Company. P.W.2/the occurrence witness has categorically stated that due to the rash and negligent driving of the driver of the offending vehicle, insured with the appellant/Insurance Company, the accident has taken place. In the absence of any evidence to disbelieve the evidence of P.W.2 and in the absence of any independent witness being let in by the Insurance Company before the Tribunal, we have no hesitation to negative the claim of the Insurance Company.

7. On the point of quantum of compensation, both sides are heard.

8. It is seen from the records that the respondents 3 to 5 who are the legal representatives/brother of the said deceased Karthik and one Rajesh Kanna who is the brother of the said person also died in the accident and the claim petitioners/respondents 3 to 5 herein are the wife, daughter and son of the said Late. Rajesh Kanna.



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9. The learned counsel for the Insurance Company has raised an objection that they are not legal representatives of the deceased Karthick.

10. Per contra, the learned counsel for the respondents 2 to 5 would contend that after the death of the said Rajesh Kanna, all the three claim petitioners/respondents 1 to 5 are solely depending on the income derived by the said deceased Karthick and as per Section 3 of the M.V. Act, they are legal dependents and not the legal representatives. With regard to the loss of love and affection, Rs.1,00,000/- and transport, Rs.5,000/- have been granted by the Tribunal.

11. After going through the quantum of compensation awarded by the Tribunal, though we feel that it is likely on the higher side, taking note of the passage of time, we are not inclined to interfere with, except for differentiate in the apportionment of the claim petitioners.



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12. Accordingly, the respondents 3 to 5 are entitled to get a sum of Rs.1,00,000/- (Rupees One Lakh only) each and the 2<sup>nd</sup> respondent is entitled to get the remaining amount of Rs.27,64,020/- (Rupees Twenty Seven Lakhs Sixty Four Thousand and Twenty only) with interest at the rate of 7.5% p.a., per annum from the date of claim petition till the date of realization.

13. With these modifications, the Civil Miscellaneous Appeal is partly allowed to the extent indicated above. The appellant is directed to deposit the modified award amount with interest at 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1809 of 2015 on the file of the Motor Accident Claims Tribunal (V Additional District Judge), Madurai, after deducting the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the second and third respondents/claimants are permitted to withdraw their share as per the apportionment fixed by this Court along with proportionate accrued interest and cost, less the amount already withdrawn, if any. The Tribunal shall deposit the shares of claimants/respondents 4 and 5, who are minor claimants, in a Fixed Deposit in any one of the Nationalised Banks, which shall



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be renewed periodically, till they attain majority. The third respondent-mother of the minors is permitted to withdraw the interest from the shares of her minor children, viz., respondents 4 and 5, once in three months from the bank directly. No costs. Consequently, connected miscellaneous petition is closed.

**[T.K.R., J.] [P.B.B., J.]**

**17.10.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
sjj

To

- 1.The Motor Accident Claims Tribunal (V Additional District Judge),  
Madurai.
- 2.The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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