



C.M.A. (MD)No.1065 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.1065 of 2022

Loordhu Mary

...Appellant

Vs.

1.Kumar
2.Kurusu Muthu
3.Stephan
4.Vins
5.Ganapathi
6.Oriental Insurance Company Ltd.,
rep. by its Manager,
DDJ Centre 1st Floor,
opposite Vadasery Bus Stand,
Nagercoil, Kanyakumari District.
7.Soosai Mariyan

Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173(1) of the Motor Vehicles Act, 1988 to set aside the decree and Judgment in MCOP.No.55/2012 passed by the Motor Accident Claims Tribunal Cum Sub Court, Padmanabhapuram, dated 14.02.2018.



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For Appellant : Mr.K.P. Narayanakumar

For Respondents 1 to 3: No appearance

For 6th respondent : Mr.C. Chandrasekaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the 7th respondent, who is the mother of the deceased Lilly Bai, daughter of the appellant, died in the accident. Challenge has been made only in respect of not allowing any share to the parents of the deceased.

2. The first respondent, who is the son-in-law, has filed a claim petition claiming compensation for the death of his wife. It is also stated that he has already filed two other petitions in MCOP.Nos.56 and 57 of 2012 claiming compensation for the death of two children. While the deceased was travelling in a Auto Rickshaw bearing Regn.No.TN 74 W-6345, on 24.03.2009 at 6.30 p.m., the 2nd respondent's vehicle bearing Regn.No. TN-09-Z-2585 came in the opposite direction driven by its driver in a rash and negligent manner and dashed against the Auto, as a result, the wife and children of the 1st respondent / claimant succumbed to injuries and three independent claim petitions have been filed. As far as



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the claim petition in respect of the wife's death, the 1st respondent / claimant pleaded that she was earning a sum of Rs.6,000/- per month. The 6th respondent / Insurance Company has not disputed the accident.

3. It is the contention that the accident had occurred only due to the negligent driving of the Auto Driver. Considering the entire evidence, the Tribunal has awarded a sum of Rs.4,63,000/- together with interest as compensation to the 1st respondent / claimant alone. The Tribunal has not apportioned any amount to the parents mainly on the ground that since the deceased was living with her husband and her marriage taken place 10 years back and therefore, no amount has been apportioned. Challenging the same, the present appeal has been filed.

4. It is relevant to note that as far as the quantum aspect, no challenge has been made. The only grievance of the appellant before this Court is that some amount has to be apportioned to her being the mother of the deceased.

5. Despite the name of the first respondent printed in the cause list, no one has entered appearance. The learned counsel appearing for the



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appellant submitted that the Tribunal has not allowed any amount to the appellant and her deceased husband, since they are not dependent. At the out set, now the following point has been raised in this appeal is as follows:

Whether the Tribunal is right in not awarding any compensation to the parents of the deceased daughter?

6. The present appeal filed by the mother of the deceased and she claimed her share. Though the Tribunal has awarded a sum of Rs.4,63,000/-, did not apportion any amount to the parents. It is relevant to note that the first respondent, being a son-in-law, has filed three claim petitions and in all the three claim petitions he was awarded a compensation.

7. This court is of the view that merely because the appellant was not a dependent on the deceased, she cannot be denied any right to claim a compensation, under Section 166 of the Motor Vehicles Act not only a dependent, but, the legal representatives can file an application claiming compensation. Such being the position of the law, the Tribunal



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disallowing any apportion of the compensation to the parents is improper.

Admittedly, the loss of daughter would cause huge mental agony to the parents and that cannot be compensated by terms of any money.

8. Considering the facts and circumstances, a sum of Rs.1,50,000/- is apportioned from the compensation and awarded to the appellant and the 7th respondent herein in the interest of justice. It is submitted by the appellant that during the pendency of the appeal, the 7th respondent died. Hence, the appellant is entitled to a share of Rs.1,50,000/- out of the compensation awarded in MCOP.No.55 of 2012, on the file of the Motor Accidents Claims Tribunal, Sub Court, Padmanabhapuram along with interest from the date of petition till the date of deposit.

9. Accordingly, this Civil Miscellaneous appeal is disposed of.

No costs.

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Index : Yes/No

Internet : Yes/No

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To

The Motor Accident Claims Tribunal Cum Sub Court, Padmanabhapuram.



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N.SATHISH KUMAR, J.

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