



C.M.A.No.374 of 2021

C.M.A.No.374 of 2021

WEB C **M.DHANDAPANI, J.**

Today, this matter is listed under the caption “For Being Mentioned” at the instance of the Registry.

2. It is brought to the notice of this Court by the Registry that, the 1st respondent has died as early as on 07.06.2020. However, the compensation awarded by the tribunal in favour of the 1st respondent/claimant has not been apportioned in between the respondents 4 to 6, the Legal heirs of the deceased 1st respondent/claimant. Therefore, the Registry seeks appropriate clarification.

3. This Court perused the order dated 18.12.2024, more particularly the paragraph 9 of the said order, and this Court is satisfied that, necessary direction has to be issued with regard to apportionment of compensation awarded by the tribunal in favour of the deceased 1st respondent/claimant, in between the respondents 4 to 6, who are the Legal heirs of the deceased 1st respondent/claimant.



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4. In view of the above, Paragraph 9 of the order dated 18.12.2024 shall stand replaced with the following paragraph:

“ 9. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. The appellant-insurance company is directed to deposit the entire amount awarded by the Tribunal to the credit of MCOP.No.146 of 2018 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. The above compensation amount shall be equally apportioned among the respondents 4 to 6, who are the legal heirs of the deceased 1st respondent/claimant. On such deposit being made, the Tribunal is directed to transfer the compensation amount apportioned in respect of the 4th respondent directly to his bank accounts through RTGS within a period of two (2) weeks thereafter. Insofar as the compensation in favour of the minors 5th and 6th respondents is concerned, the Tribunal is directed to invest the same in an interest bearing fixed deposit initially for a period of three years to be renewed periodically till they attain majority and the quarterly interest accrued thereon shall be paid to the 4th respondent/father of the minors for being utilised for the welfare of the minors 5th and 6th respondents. No costs. Consequently, the connected Miscellaneous petition is closed.”



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5. All the other observations made in the earlier order dated 18.12.2024 shall remain intact.

6. Registry is directed to carry out the necessary correction as aforesaid in the order dated 18.12.2024 and issue fresh copy of the order to the learned counsel for the parties.

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18.02.2025



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18.02.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.374 of 2021
and CMP. No.2487 of 2021

TATA AIG General Insurance Company Ltd.,
May Flower Building, I Floor,
Dr. Balasundaram Road,
AIT Colony,
Coimbatore-18.

.. Appellant

Vs.

1. Rathiga (Died)
2. N.Muralidharan
3. M.Sujatha
4. R.Duraisamy
5. Minor D.Makeshwari
6. Minor D.Renuga
Minors are represented by 4th respondent
Respondent 1 – Died. Respondents 4 to 6 are
brought on record as legal heirs of the
deceased R-1 Viz. Rathiga vide Court order
dated 09.08.2024 in CMP. No.9179 of 2021
in CMA.No.374/2021 by this Court;

.. Respondents



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Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the order dated 30.06.2020 in MCOP. No.146 of 2019 on the file of the Motor Accidents Claims Tribunal, Special District Court for MCOP Cases, Tiruppur.

For Appellant : Mr.J.Michael Visuvasam
For Respondents : Mr.K.Myilsamy RR2 to 6

J U D G M E N T

The Insurance company is the appellant herein has filed this appeal seeking to quash the order dated 30.06.2020 in MCOP. No.146 of 2019 on the file of the Motor Accidents Claims Tribunal, Special District Court for MCOP Cases, Tiruppur.

2. It is the case of the claimant that on 20.10.2017 at about 11.45 hours, the first respondent was travelling as pillion rider in Honda Dream CD bike bearing Reg. No.TN 42 L 1625 on ABT Road, Tiruppu at that time, the second respondent driven a car bearing Reg. No.TN 39 BS 1870 in a rash and negligent manner and dashed against the first respondent vehicle and caused the accident, Due to this accident the first respondent sustained grievous injuries. Thereafter, she has filed a



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Claim Petition before the Motor Accident Claims Tribunal, against the owner and insurer of the car claiming Rs.25,00,000/- as compensation under various heads.

3. During the trial before the Tribunal, on the side of the claimants, there were two witnesses examined and marked 6 documents viz., Exs.P1 to P6. On the side of the insurance company, one witness was examined and no documents were marked.

4. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition in part and awarded a sum of Rs.16,75,638/- as compensation to the claimant payable by the insurer. Questioning negligence, the appellant insurance company/insurer of the car has filed this appeal before this Court.

5. The learned counsel for the appellant submitted that admittedly the award was passed on 30.06.2020 and the first respondent died on 07.06.2020. However, the death was not intimated to the Tribunal. The medical board assessed disability at 73%. Instead of awarding compensation per percentage, the Tribunal applied multiplier method which is contrary to the decision rendered by the Hon'ble



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Supreme Court in the case of *Rajkumar Vs. Ajaykumar*. In the present case, the first respondent did not suffer with functional disability. In the absence of the functional disability, the Trial Court awarded compensation by applying multiplier method which is unsustainable one. Hence, the learned counsel prays that this Court may set aside the award passed by the Tribunal and allow this petition.

6. The learned counsel appearing for the claimants submitted that admittedly the medical board assessed the disability at 73% and the the first respondent was a tailor. Due to the accident, she could not continue her avocation as earlier. Thereby, after examining the witnesses and considering the materials, the Tribunal has rightly awarded compensation to the claimants, which does not warrant any interference.

7. Heard the learned counsel for the appellant and the learned counsel for the respondent and perused the materials available on record.

8. On perusal of the award passed by the Motor Accident Claims Tribunal, it is seen that the accident has not been disputed. Though the first respondent not



died due to the accident and she died prior 23 days of passing the award.

Admittedly, the award was passed as against the dead person. In the present case, the medical board assessed the disability at 73% and the first respondent deceased suffered crush injury in her hip and therefore, she could not continue her avocation as she was a tailor. Therefore, the Tribunal has rightly assessed the issue by applying the multiplier method and awarded compensation in respect of loss of income, which needs no interference. The Tribunal has elaborately discussed the issue and awarded compensation to the claimants which are just and reasonable. In view of the above, this Court do not find any error in the award passed by the Tribunal and there is no merit in the appeal.

9. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. The appellant insurance company is directed to deposit the entire amount awarded by the Tribunal along with interest at 7.5% and costs, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. on such deposit, the claimants are permitted to withdraw their share equally along with interest and costs, by



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filing necessary applications before the Tribunal. No costs. Consequently,

connected miscellaneous appeal is closed.

18.12.2024

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Index : Yes

Speaking Order : Yes

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To

Motor Accidents Claims Tribunal, Special District Court for MCOP Cases,
Tiruppur.

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18.12.2024