



C.M.A.No.692 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS. JUSTICE R.SAKTHIVEL**

**C.M.A.No.692 of 2023
and
C.M.P.Nos.6100 & 6105 of 2023**

1. The Director,
Rural Development,
Panchayatraj,
Chennai - 15.

2. The Block Development Office,
Block Panchayat, Gummidipoondi,
Tiruvallur District - 601 201,
(amended as per I.A.4/2021)
dtd 09.12.2021)

..Appellants

Vs.

1. Neelavathi

2. Mahalakshmi

3. Subalakshmi

4. Lavanya

..Respondents

Prayer:



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Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 28.09.2022 passed by the Motor Accident Claims Tribunal No.1, Special District Court, Thiruvallur made in MCOP.No.97 of 2019

For Appellant : Mr.R.Anitha
Special Government Pleader (CS)

For Respondent : Mr.U.Chitambaram,

JUDGMENT

(The order of the Court was made by Mrs.J.Nisha Banu,J.)

This appeal has been filed by the appellants/Panchayat challenging the judgment and decree dated 28.09.2022 passed by the Motor Accident Claims Tribunal, No.1, Special District Court, Thiruvallur, made in MCOP.No.97 of 2019, by which, the Tribunal awarded a sum of Rs.39,62,824/-, as compensation to the claimants payable by the appellants herein, for the death of one Mr.Govindasami in a road accident which occurred on 10.04.2019.

2. The averments made in the claim petition is that on 10.04.2019 at about 03.15 a.m., while the deceased Govindasamy was travelling in Bolero Jeep bearing registration No.TN-18-G-0012 along with election flying force officers from Arani to Puthuvoyil Main Road near



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Puthuvoyil Tasmac Shop, at that time, the appellant/respondent vehicle bolero jeep driven by its driver in a rash and negligent manner at uncontrolled speed, hit the right side of Tamarind tree. By the accident, the vehicle flipped upside down. The deceased Govindasami got head injury and multiple injuries all over the body and died on the spot. The accident occurred due to rash and negligent driving of the driver of the Bolero Jeep bearing registration No.TN-18-G-0012. The claimants have claimed a sum of Rs.1,00,00,000/- as compensation and that both the respondents/appellants herein, are jointly and severally liable to pay the compensation.

3. The Tribunal, examined three witnesses on the side of the claimants viz., P.W.1 to P.W.3 and marked fourteen documents viz., Exs.P1 to P.14. On the side of the respondent/appellant, one witness, R.W.1 was examined and no document was marked. The Tribunal, based on the witnesses and on the documents produced by both sides, has found that the entire negligence was on the part of the driver of the appellant's vehicle and fastened the liability on the part of the appellants herein. The Tribunal has ultimately quantified the compensation at Rs.39,62,824/-. Being dissatisfied with the quantum arrived at by the



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Tribunal, the appellants are before this Court in this Civil Miscellaneous Appeal.

4. The learned Special Government Pleader appearing for the appellants submitted that the Tribunal has erroneously fixed the income of the deceased as Rs.33,138/- per month and also fixed 15% addition as future prospects. She would further state that a sum of Rs.40,000/- under the head of loss of consortium for each of the claimants is on the higher side. Learned counsel would further state that the Tribunal failed to accept the evidence on the side of the appellants side that an ex-gratia amount of Rs.15,00,000/- had been paid to the respondents as they are the legal heirs of the deceased Govindasami who died in the accident while performing election duty, as per G.O.(Ms)No.303, Public (Elections-III) Department dated 09.05.2019. Learned counsel would further state that even though the Tribunal accepted the payment of Rs.1,00,000/- for the death of Govindasami, received by the claimants from the Commissionerate, while awarding compensation, the said amount has not been excluded.

5. In support of the above contention, learned counsel relied on the decision made in Special Leave Petition (C) No.5043 of 2019 (Krishna



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& Ors. v. Tek Chand & Ors.) and the decision reported in (2016) 9 SCC 627 (*Reliance General Insurance Co.Ltd. v. Shashi Sharma*) wherein it has been held that the claimants cannot be permitted to profiteers and receive double benefit on account of the death of their family member on the same head of "Loss of income" to them.

5. Heard the learned Special Government Pleader appearing for the appellants as well as the respondents and perused the materials available on record.

6. The dispute is only with regard to the quantum arrived by the Tribunal. Though the learned Special Government Pleader appearing for the appellants raised various grounds as against the award passed by the Tribunal, she mainly contended that the amount of ex-gratia granted to the family members of the deceased i.e., Rs.15,00,000/- and the amount of Rs.1,00,000/- received by the wife of the deceased from the Commissionerate for the death of her husband have not been deducted.

7. At this juncture, it would be appropriate to refer to the decision



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relied on by the learned counsel for the appellants made in Special Leave
Petition (C) No.5043 of 2019 (Krishna & Ors. v. Tek Chand & Ors.)

wherein at paragraph No.6, it has been held as follows:

6.We find that the observations of this Court in *Sebastiani Lakra* (supra) *distinguishing the case of Shashi Sharma* (supra) clearly applies to the case in hand. It is observed that the amount of Rs.31,37,665/- (Rupees Thirty One Lakhs, Thirty Seven Thousand and Six Hundred and Sixty Five only) was paid to the dependants of the deceased-employee who are the petitioners herein under the aforesaid Rules since the said Rule was by way of compassionate assistance owing to the sudden death of the employee in harness for any reason whatsoever including as a result of a road traffic accident. This is in order to compensate the loss of the bread earner of the family who dies in harness. In the case of a motor vehicle accidents, when negligence is proved, loss of dependency is compensated for the very same reason. In our view, there cannot be a duplication in payments or a windfall owing to a misfortune. In another words, on the death of the person in harness, owing to a road traffic accident the dependants of a deceased



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cannot be doubly benefited as opposed to those who are dependants of a deceased who dies owing to illness or any other reason under the Rules formulated by the Haryana Government.

7. Further, in the decisions reported in *(2016) 9 SCC 627 (Reliance General Insurance Co.Ltd. v. Shashi Sharma)*, it has been held at paragraphs No.9 as follows:

9. The Insurance Companies, on the other hand have relied on the decision of the two-Judge Bench of this Court in *Bhakra Beas Management Board v. Kanta Aggarwal*, to content that the plea of the appellant in that case that the claimants have received financial assistance from other sources due to the death of her husband by way of salary amount on account of compassionate appointment and also residence provided to her was deductible., has been accepted by this Court; and was so deducted while determining a just compensation amount payment under the Motor vehicles Act. reliance is also placed on the dictum of three-Judge Bench in *Gobald Motor Service Ltd. vs. R.M.K.Veluswami*, which according to the Insurance Company, permits deduction of benefits such as compensation received by the



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dependants of the deceased from the employer. Reliance is also placed on the two-Judge Bench decision in *Sheikhupura Transport Co.Ltd. v. Northern India Transport Insurance Co.*, another two-Judge Bench judgment in *Vimal Kanwar v. Kishore Dan*. Reliance is then placed on another decision of the two-Judge Bench of this Court in *Oriental Insurance Co. Ltd. v. Deo Patodi* for the principles to be reckoned to determine a just compensation payable under the Motor Vehicles Act. In substance, the contention of the Insurance companies is that the claimants cannot be permitted to profiteer and receive double benefit on account of the death of their family member on the same head of "Loss of income" to them.

From the above decisions, it could be seen that the claimants cannot be permitted to receive double benefit on account of the death of the deceased Govindasamy.

8. It is seen from the award passed by the Tribunal that PW1 in her cross examination had stated that she had received Rs.1,00,000/- from the Commissionerate for the death of her husband. It is also seen from the records that as per G.O.(D).No.933 dated 21.08.2019, an Ex-



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gratia compensation of Rs.15,00,000/- has been paid to the legal heirs of the deceased Govindasamy. Therefore, in view of the above decisions of the Hon'ble Supreme Court, we are of the view that the ex-gratia amount of Rs.15,00,000/- and a sum of Rs.1,00,000/- received by the claimants have to be deducted from the compensation awarded by the Tribunal.

9. Therefore, the compensation amount awarded by the Tribunal is modified as Rs.23,62,824/- instead of Rs.39,62,824/- (i.e., deducting Rs.16,00,000/- from the total award amount). In all other aspects, the award passed by the Tribunal is confirmed. The appellants are directed to deposit the above said award amount in the account as directed by the Tribunal within a period of two weeks from the date of receipt of a copy of this order. Accordingly, the Civil miscellaneous Appeal is disposed of. No costs.

(J.N.B,J.) (R.S.V., J.)
22.11.2024

Index : Yes / No

vsi

To

The Motor Accident Claims Tribunal No.1,



C.M.A.No.692 of 2023

Special District Court,
Thiruvallur.

J. NISHA BANU, J.
and
R.SAKTHIVEL, J.

vs

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