



C.M.A.No.3027 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 12.03.2025

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3027 of 2024

S.Loganayagi

...Appellant

Vs.

1. M.Pradeepkumar

2. Divisional Manager,
The New India Assurance Company Limited,
Do.No.179, JN Street, (III Floor),
Puducherry – 605 001.

3. Renuka Parameswari

4. Minor Vijayalakshmi
(Rep. by mother Renuka Parameswari)

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, challenging the judgment and decree in MCOP.No.2748 of 2017 dated 08.09.2023 on the file of the Motor Accident Claims Tribunal/ (No.II Special District Court – Cuddalore).

For Appellant : M/s.Ramya V.Rao

For Respondents : Mrs.R.Rathna Thara, for R2
: Mr.K.V.Ramesh, for R3 & R4

ORDER



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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, this Court, vide order dated 21.11.2024 dismissed this Civil Miscellaneous appeal with a direction to the 2nd respondent to deposit the compensation awarded by the tribunal to the credit of MCOP.No.2748 of 2017. However, in paragraph No.9, inadvertently, the award amount has been mentioned as **Rs.12,84,385/-** instead of **Rs.16,20,540/-**, which requires to be modified.

3. This Court perused the order dated 21.11.2024, particularly, para 9 of the said order, and this Court is satisfied and accordingly, paragraph 9 of the order dated 21.11.2024 shall stand replaced with the following paragraph:

*“ 9. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.2748 of 2017 dated 08.09.2023 and the 2nd respondent-insurance company is directed to deposit the compensation of **Rs.16,20,540/-** awarded by the tribunal to the credit of MCOP.No.2748 of 2017 along with*



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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 six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to invest the same in an interest bearing fixed deposit initially for a period of three years to be renewed till she attains majority and the quarterly interest accrued thereon shall be paid to the 3rd respondent/mother of the minor claimant for being used for the welfare of the minor claimant by the guardian. It is underscored that the 4th respondent is not entitled to any interest for the default period, if any. No costs. ”

4. All the other observations made in the earlier order dated 21.11.2024 shall remain intact.

5. Registry is directed to carry out the necessary correction as aforesaid in the order dated 21.11.2024 and issue fresh copy of the order to the learned counsel for the parties.

12.03.2025

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Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, challenging the judgment and decree in MCOP.No.2748 of 2017 dated 08.09.2023 on the file of the Motor Accident Claims Tribunal/ (No.II Special District Court – Cuddalore).

For Appellant : M/s.Ramya V.Rao

For Respondents : Mrs.R.Rathna Thara, for R2
: Mr.K.V.Ramesh, for R3 & R4



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JUDGMENT

This Civil Miscellaneous appeal has been filed challenging the award and decree passed in MCOP.No.2748 of 2017 dated 08.09.2023 on the file of the Motor Accident Claims Tribunal/(No.II Special District Court – Cuddalore).

2. Mrs.R.Rathna Thara, learned counsel takes notice on behalf of the 2nd respondent, Mr.K.V.Ramesh, learned counsel takes notice on behalf of the 3rd and 4th respondents. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. The case of the claimant is that, on 17.04.2017 at about 14.00 hours when the deceased Saravanan was travelling as a pillion rider in the Hero Splendor Motor Cycle bearing Regn.No.PY-01-CF-0742 driven by the deceased rider Muthukumar @ Muthukumaran on Cuddalore to Nellikuppam Main Road, at that time, the Bus bearing Regn.No.TN-32-AA-2799 owned by the 1st respondent insured with the 2nd respondent driver by



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its driver came in a rash and negligent manner and dashed against the above said motor cycle, due to which, the deceased Saravanan sustained fatal injuries and died on the spot. Thereby, the appellant filed a claim petition in MCOP.No.2748 of 2017 claiming a compensation of Rs.25,00,000/-. Before the tribunal, the claimant examined two witnesses viz., P.W.1 & P.W.2 and marked exhibits P.1 to P.10 and on the side of respondents, one witness viz., R.W.1 was examined and exhibits R.1 and R.2 were marked. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent vehicle, however, fixed 10% contributory negligence on the part of the deceased Saravanan and awarded a meagre compensation of Rs.16,20,540/- in favour of the 4th respondent/daughter of the deceased alone and rejected the petitioner's claim. Aggrieved with the said order, the appellant has come up with this appeal.

4. Learned counsel for the appellant submitted that, though the appellant is the sister of the deceased Saravanan, however, she has not been granted any compensation towards the death of her brother. Further, though



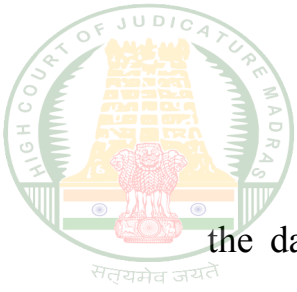
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the deceased married the 3rd respondent and out of the wedlock, they were blessed with the 4th respondent herein, however, subsequently their marriage was dissolved and after the separation, the deceased Saravanan stayed in the appellant's house and he spent his income only for the welfare and development of the appellant and after the demise of her brother, the appellant was put to great hardships. and thereby, the appellant being a dependent and a legal heir/legal representative of the deceased Saravanan, she is entitled for compensation. However, without considering any of the above said facts, the tribunal had mechanically dismissed the claim of the appellant, which is wholly unsustainable. Accordingly, she prayed for appropriate orders.

5. On the above said contentions, heard learned counsel appearing on behalf of the respective respondents and perused the material documents placed on record.

6. The factum and manner of the accident is not in dispute and therefore, this Court is not entering into the said aspect.

7. As evident from the materials placed on record, the 4th respondent is



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the daughter of the deceased, though the marriage between the deceased Saravanan and the 3rd respondent was dissolved, as on the date of filing of the claim petition, the 4th respondent/daughter of the deceased is very much available and she is a class-I legal heir of the deceased. When the class-I legal heir of the deceased is available, the appellant/sister of the deceased, who is the class-II legal heir cannot claim compensation.

8. Further, no documentary evidence has been produced by the appellant to show that she is dependent on the deceased and the appellant miserably failed to show that the deceased was staying with her at the time of accident and thereby, the tribunal rejected the appellant's claim, in which this Court does not find any fault with.

9. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.2748 of 2017 dated 08.09.2023 and the 2nd respondent-insurance company is directed to deposit the compensation of **Rs.12,84,385/-** awarded by the tribunal to the credit of MCOP.No.2748 of 2017 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



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by the Tribunal, less the amount, if any, already deposited, within a period of

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six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to invest the same in an interest bearing fixed deposit initially for a period of three years to be renewed till she attains majority and the quarterly interest accrued thereon shall be paid to the 3rd respondent/mother of the minor claimant for being used for the welfare of the minor claimant by the guardian. It is underscored that the 4th respondent is not entitled to any interest for the default period, if any. No costs.

21.11.2024

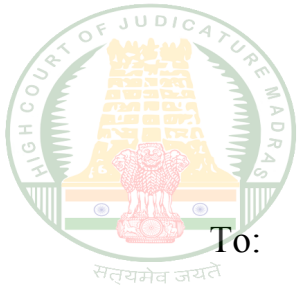
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NCC : Yes/No
Index : Yes/No
Speaking order : Yes/No

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To:

WEB COPY The Motor Accident Claims Tribunal/No.II Special District Court,
Cuddalore.

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21.11.2024