



WEB COPY



C.M.A.No.3319 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM:

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

C.M.A.No.3319 of 2024

1. Ravi
2. Dhanasu

...Appellants

Vs.

1. Usman
2. United India Insurance Co.Ltd.
Rep. by its Branch Manager,
J.N.Street, Pondicherry.
3. K.Suganthi
4. Jaya
5. Vijayakumar
6. Guna @ Arunya
7. Suguna
8. Latchumi

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the Judgment dated 05.12.2001 made in M.C.O.P.NO.397 of 2001 on the file of the Court of the Motor Accidents Claims Tribunal, (III Additional District Judge) at Puducherry.



WEB COPY



C.M.A.No.3319 of 2024

For Appellants : Mr.T.Dhanasekaran

For Respondents : Mr.S.Arun Kumar for R2

JUDGMENT

Challenging the judgment and decree dated 05.12.2001 passed in M.C.O.P.NO.397 of 2001 on the file of the Motor Accidents Claims Tribunal, (III Additional District Judge) at Puducherry, the claimant has come up with this appeal.

2. The case of the appellants is that, on 20.12.2000 at about 9.00 am, when the deceased Kalivarthan was riding his motor cycle along with his daughter, at that time a bus bearing Regn No.PY 01 N 9599 belonging to the first respondent insured with the second respondent came in a rash and negligent manner and dashed the motor cycle in which the deceased was riding, due to which the deceased was admitted in the Hospital and succumbed to injuries. Thereby, the appellants, who are the legal heirs of the deceased have filed a claim petition claiming a compensation of Rs.10,05,000/-. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.4,13,000/- in favour of the respondents 3 to 7. Aggrieved with the said order, the claimants 2 and 3 / appellants have come



C.M.A.No.3319 of 2024

up with this appeal seeking enhancement of the compensation fixed.

WEB COPY

3. Learned counsel for the appellants / claimant submitted that, admittedly the respondents 3, 6 and 7 are not the wife and daughters of the deceased Kalivarathan and they have also filed a suit for partition in O.S.No.94 of 2006 on the file of the learned Additional Subordinate Judge, Villupuram, which was decreed by a judgment and decree dated 24.07.2018, wherein the Award dated 05.12.2001 passed in M.C.T.O.P.No.397 of 2001 by the Tribunal has been marked as Exhibit A-27, in which the third respondent has forged the signatures of the appellant, managed to obtain orders and withdrawn the entire compensation awarded by the Tribunal. He further submits that the appellants are claiming equal shares of the suit properties and with regard to the same, civil dispute is also pending before the lower Court. He further submits that though the accident is of the year 2000, however, the claim petition has been filed in the year 2001 and this Court had condoned the delay of 8016 days, by granting adequate opportunity to the appellant to obtain their respective shares in the suits filed by the parties. However, without considering the said facts, the Tribunal has awarded compensation in favour of the respondents 3 to 7 which is *per se*



C.M.A.No.3319 of 2024

unsustainable.

WEB COPY

4. Per contra, the learned counsel appearing for the 2nd respondent / insurance company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

5. Heard the learned counsel for the appellant as well as the 2nd respondent and perused the materials available on record.

6. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties and the parties have not raised any issue on the aspect of negligence and therefore, this Court is not venturing into the same.

8. Admittedly, the appellants and the respondents 4 and 5 were born



C.M.A.No.3319 of 2024

out of the wedlock between the deceased and the first wife of the deceased namely Gunabushanam. The respondents 6 and 7 were the born out of the wedlock between the deceased and the second wife of the deceased, the third respondent herein. The 8th respondent is the mother of the deceased. The fourth respondent is the unmarried daughter of the deceased. On a perusal of the award passed by the Tribunal, it reveals that it has awarded compensation only to the dependants of the deceased and failed to award compensation in favour of the appellants, since they are not the dependants of the deceased, only on proper appreciation of the evidence on record and rather it is only in commensurate with the injuries suffered by the deceased.

9. In view of the above, this Court holds that the impugned award of the Tribunal does not warrant interference and the Civil miscellaneous appeal is dismissed while confirming the award passed by the tribunal in M.C.O.P.No.397 of 2001 dated 05.12.2001 and the second respondent is directed to deposit the compensation of Rs.4,13,000/-awarded by the tribunal to the credit of M.C.O.P.No.397 of 2001 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit



C.M.A.No.3319 of 2024

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 transfer the said amount to the respondents 3 to 8 directly to his bank account through RTGS within a period of two (2) weeks thereafter. It is underscored that the compensation shall be apportioned among the respondents 3 to 8 as per the order of the Tribunal. However, the order passed by the Tribunal shall not bind on the civil dispute, if any is pending between the parties. There shall be no order as to costs in this appeal.

19.12.2024

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



C.M.A.No.3319 of 2024

To:

WEB COPY

1. Motor Accidents Claims Tribunal, (III Additional District Judge) at Puducherry.
2. The Section Officer,
V.R.Section, High Court, Madras.

M.DHANDAPANI, J.



WEB COPY



C.M.A.No.3319 of 2024

rap

C.M.A.No.3319 of 2024

19.12.2024