



C.M.A.No.1506 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1506 of 2021
and C.M.P.No.7851 of 2021

Cholamandalam MS General

Insurance Co. Ltd.,

No.64, Pidamaneri Main Road,

Sai Towers,

Near District Stadium,

Dharmapuri.

...Appellant

Vs.

1.Manjula

2.Minor Aasha

3.Minor Janani

4.Shanthi

*(Minors 2 & 3 are rep. by their
next friend Mother – Manjula)*

5.Thangavel

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 01.10.2019 in



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M.C.O.P.No.607 of 2017 on the file of the Motor Accident Claims Tribunal (Special District Court) (District Judge) at Krishnagiri.

For Appellant : Mrs.R.Sree Vidhya

For Respondents : Mr.S.Murugan for R1 to R4

J U D G M E N T

This appeal is filed by the appellant Insurance Company challenging the judgment and decree passed by the Motor Accident Claims Tribunal (Special District Court) (District Judge) at Krishnagiri in M.C.O.P.No.607 of 2017, dated 01.10.2019.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The petitioners are the claimants, the first respondent is the owner of the vehicle and the second respondent is the Insurance Company before the Tribunal.



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4.The brief facts of the case are as follows:

According to the petitioners, on 12.06.2015 at about 10.10 p.m., the deceased Pandiyan returned to his house in Apache Two wheeler bearing Registration No.TN-28-AZ-4179 from Dharmapuri to Krishnagiri N.H.7 Road, while the deceased proceeded near Anjayeyar Koil Branch Road, at that time a Taros Lorry bearing Registration No.TN-29-AD-8291 belonging to the first respondent and insured with the second respondent came behind the deceased vehicle, the driver of the lorry drove the same in a rash and negligent manner and suddenly scratched on the left side of the deceased two wheeler, the deceased fell down and caused the accident. Due to the sudden impact, the deceased sustained various grievous injuries on the vital organs and died on the spot. A case was registered in Crime No.337/15 under Sections 279 and 304(A) of IPC by Krishnagiri Taluk Police. The petitioners filed a claim petition before the Tribunal in M.C.O.P.No.607 of 2017, the Tribunal has awarded a sum of Rs.20,32,800/- as compensation. Aggrieved by the same, the present appeal has been filed.



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5.Learned counsel appearing for the appellant submitted that the Tribunal has fastened the liability as against the appellant Insurance Company and awarded compensation in all other heads are very excessive. Hence, she prayed for appropriate orders.

6.Learned counsel appearing for the respondents 1 to 4 submitted that after considering the oral and documentary evidence, the Tribunal has awarded the compensation which is just and reasonable and there is no interference is required by this Court. Hence, he prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 1 to 4 and perused the materials available on record.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation.



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9.Before the Tribunal, the first petitioner was examined as PW1 and Mr.Saravanan, an eye witness was examined as PW2 on the side of the petitioners, 15 documents were marked as Exs.P1 to P15. On the side of the second respondent, Mr.S.Lakshmana Kumar, Legal Manager, Cholamandalam MS General Insurance Co. Ltd., was examined as RW1 and True copy of the charge sheet was marked as Ex.R1.

10.On perusal of the records, it is seen that the Tribunal has categorically given its finding that PW2 had seen the accident and supported the petitioners case. But the appellant Insurance Company has failed to disprove the witness of PW2.

11.This Court is of the view that the Tribunal has awarded the compensation which is just and reasonable and therefore, this Court does not find any ground to interfere with the award passed by the Tribunal.



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12.The judgment and decree dated 01.10.2019 passed by the Motor Accidents Claims Tribunal/Special District Court, at Krishnagiri in M.C.O.P.No.607 of 2017, is confirmed.

13.The appellant Insurance Company is directed to deposit the compensation awarded by the Tribunal, less the amount already deposited, if not deposited earlier together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remain unaltered.

14.In the result, the Civil Miscellaneous Appeal is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

05.12.2024

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

- 1.The Motor Accident Claims Tribunal,
Special District Court at Krishnagiri.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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