



WEB COPY



CMA.No.2324 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2324 of 2024 and
C.M.P.No.18394 of 2024

M/s. Liberty General Insurance Ltd.,
No.C6, D6, E6, & F6, Level-V,
Anmol Palani Building,
No.88, G.N.Chetty Road,
Hindi Prachar Sabha, T.Nagar,
Chennai - 600 017.

... Appellant

vs.

1. S.Jayalakshmi
2. J.Davidson

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award, dated 03.11.2023 in M.C.O.P.207/2019 on the file of the Motor Accident Claims Tribunal, II Additional District & sessions Court, Tiruvallur at Poonamalee.

For Appellant : Mrs.C.Harini
M/s.M.B.Gopalan Associates

J U D G M E N T

Questioning the quantum of compensation awarded by the Motor Accident Claims Tribunal, Tiruvallur in M.C.O.P.207/2019, the present appeal is filed by the appellant, Liberty General Insurance Limited, Chennai.



CMA.No.2324 of 2024

2. The claimant / 1st respondent filed a claim petition under

Section 166 of Motor Vehicles Act & Rule 3 of the M.A.C.T. Rules, in M.C.O.P.207/2019 before the the Motor Accident Claims Tribunal, II Additional District & sessions Court, Tiruvallur at Poonamalee, seeking compensation of Rs.15,00,000/- for the death of her father V.Dayalan, in a road accident which happened on 24.09.2018.

3. The brief case of the appellant / claimant is as follows :

On 24.09.2018, V.Dayalan (deceased) was riding his bicycle on Avadi main road. When he was nearing Anaikattu 1st street junction at about 6.45 p.m., a speeding Auto Rickshaw bearing Registration number TN-12-V-8464 belonging to the 2nd respondent, hit the bicycle resulting in his instantaneous death.

4. According to the claimant, the rash and negligent driving of the driver of the Auto Rickshaw was the cause of the accident and that since the owner of the Auto Rickshaw had insured his vehicle with the appellant, the Liberty General Insurance Limited, the owner and the insurer are jointly and severally liable to pay compensation to her.

5. In the Tribunal, the owner of the Auto Rickshaw remained



CMA.No.2324 of 2024

absent and was set *ex parte*. The appellant, Insurance Corporation resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

6. The Tribunal after analysing the evidence on record, awarded a compensation of Rs.8,07,444/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

7. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant / Insurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act.

8. Heard Mrs.C.Harini, learned counsel for the appellant / Insurance Company.

9. Mrs.C.Harini, learned counsel for the appellant / Insurance Company contended that though the daughter is the only claimant, the Tribunal had deducted 1/3rd of the income of the deceased towards his personal expenses and the same should be set aside. She therefore prayed



CMA.No.2324 of 2024

for scaling down the compensation.

WEB COPY

10. It is not shown that the daughter was residing separately and according to the claimant / daughter, she was depending on her father's income. In the circumstances, 1/3rd of the income deducted by the Tribunal towards his personal expenses cannot be found fault with. The Tribunal has awarded just compensation of Rs.8,07,444/- and therefore I do not see any reason to interfere with the same.

11. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

(ii) The quantum of compensation passed by the Tribunal is upheld.

27.08.2024

Index : Yes/No
Speaking/Non-speaking order
vum

To



CMA.No.2324 of 2024

WEB COPY

1. The Motor Accident Claims Tribunal,
II Additional District & sessions Court,
Tiruvallur at Poonamalee.

2. The Section Officer, VR Section,
Madras High Court, Chennai.

R.HEMALATHA, J.



WEB COPY



CMA.No.2324 of 2024

vum

C.M.A.No.2324 of 2024 and
C.M.P.No.18394 of 2024

27.08.2024