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Civil Miscellaneous Appeal No.1196 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1196 of 2024

1.Chinnaponnu
W/o.Govindhan

Govindhan (died)
S/o.Mani

... Appellants

Vs.

1.Kilaru Pravhavathi
W/o.Kilaru Rajasekhar

2.United India General Insurance Co. Ltd.,
RR Apparao Street, One Town Vijayawada,
Krishna Andhra Pradesh,
Branch Office at No.140-A, 1st Floor,
Ranga Building, Peramanaur Main Road,
Near Four Roads, Peramanur, Salem District.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.06.2023 made in M.C.O.P.No.809 of 2021 on the file of Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.



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For Appellants : Mr.R.Navaneetha Krishnan

For Respondents : Ms.R.Sreevidhya [R2]

JUDGMENT

The mother of the deceased Eshwari has filed the present appeal against the award passed by the Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem, in M.C.O.P.No.809 of 2021, dated 01.06.2023.

2. The claim petition was originally filed by the parents of the deceased minor Eshwari on the ground that the deceased was travelling as a pillion rider in a two wheeler ridden by her grandfather on 30.06.2021 at Seelanaickenpatti - Kondarampatti main road and at about 10.30 a.m., when the vehicle came near Amman Generator company, the offending vehicle, a lorry, was driven in a rash and negligent manner and it hit against the two wheeler as a result of which the deceased was thrown out of the vehicle and she sustained grievous injuries and she succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.



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3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.11,45,000/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	10,80,000/-
2.	Loss of love and affection	40,000/-
3.	Funeral expenses	25,000/-
	Total	11,45,000/-

However, since the father of the deceased died during the pendency of the claim petition, the Tribunal deducted his share and granted compensation of Rs.5,72,500/- only in favour of the mother of the deceased. This amount was directed to be paid by the insurance company with interest at 7.5% p.a.

4. The appellant, aggrieved by the deduction made by the Tribunal, has filed the present appeal.



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5. Heard Mr.R.Navaneetha Krishnan, learned counsel for appellant/claimant and Mrs.R.Sreevidhya, learned counsel for second respondent insurance company.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. In the instant case, the second claimant was none other than the father of the deceased. Admittedly, the claim petition was jointly filed by the father and mother of the deceased. Therefore, even if the father died during the pendency of the claim petition, the compensation that is payable to him will become part of his estate and the same will be entitled to be taken by the mother/wife. However, the Tribunal came to a conclusion that the appellant/mother is entitled only to her share. This conclusion reached by the Tribunal is not sustainable and is liable to be interfered with by this Court.



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9. In the light of the above discussion, the appellant is entitled to receive the entire compensation of Rs.11,45,000/- with interest.

10. The second respondent insurance company is directed to deposit the compensation awarded by the Tribunal, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. On such deposit, the appellant is entitled to withdraw the entire compensation with interest on due application. The appellant/claimant will not be entitled for interest for the period of delay of 212 days as was ordered by this Court in C.M.P.No.7378 of 2024 in C.M.A.Sr.No.39532 of 2024 dated 29.04.2024.

In the result, the Civil Miscellaneous Appeal is allowed. No costs.

11.07.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No



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N.ANAND VENKATESH, J.

gm

To

The Motor Accident Claims Tribunal,
Special District Judge,
MCOP Tribunal, Salem.

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