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C.M.A.No.1662 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.1662 of 2023

1. Kasipandi Denial

2. Preethi

3. Raklent

.. Appellants

Vs.

1. Anitha Alagupandi

2. M/s. United India Insurance Co. Ltd.,
Represented by its Branch Manager.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow this appeal, set aside the award and decree made in MCOP.No.552 of 2019 dated 08.02.2023 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Perambalur and by fixing the entire negligence on the respondents and enhance the compensation.

For Appellants	:	T.Gobinath
For R1	:	Mr.S.Arivalagan
For R2	:	Mr.J.Chandran



C.M.A.No.1662 of 2023

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The claimants not being satisfied with the quantum of compensation fixed, have filed the present appeal challenging the award passed by the Motor Accident Claims Tribunal, Principal District Judge, Perambalur, in M.C.O.P.No.552 of 2019 dated 08.02.2023.

2. The claimants are the father, mother and the elder brother of the deceased Renold. The case of the claimants is that the deceased Renold on 22.04.2019 was driving a two wheeler and he was going towards Perambalur and at about 7.30 a.m. when he reached Neduvasal Road and was trying to take a U-Turn to reach (Chennai-Trichy) NH 45 Road, the offending vehicle which was Toyota Innova Car was driven in a rash and negligent manner and it dashed on the two wheeler resulting in grievous injuries. Unfortunately, the deceased succumbed to the injuries. An FIR came to be registered against driver of the car in Cr.No.283 of 2019. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.



C.M.A.No.1662 of 2023

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 offending vehicle was driven in a rash and negligent manner. But, however the deceased had attempted to take U-Turn without properly noticing the road and therefore, the deceased had also contributed for the negligence. Accordingly, the Tribunal fixed 50% liability on the Insurance Company and 50% as the contributory negligence of the deceased. Thereafter, the Tribunal calculated the total compensation at Rs.23,11,796/- under various heads as follows:-

Annual Income	=Rs.14,562+5,825 (40% F.P.) x 12 = Rs.2,44,644/-
After Deducting 1/2	=Rs.1,22,322/-
Applying multiplier 18	=Rs.1,22,322 x 18=Rs.22,01,796/-
Loss of dependency	=Rs.22,01,796/-
Filial Consortium (2x40,000)	=Rs.80,000/-
Loss of Estate	=Rs.15,000/-
Funeral Expenses	=Rs.15,000/-
Total	=Rs.23,11,796/-
(-) 50% of the contributory negligence of the deceased	=Rs.11,55,898/-

4. Out of the above 50% was reduced and a direction was given to the Insurance Company to pay a sum of Rs.11,55,898/- with interest at the rate of 7.5% per annum.



C.M.A.No.1662 of 2023

5. The claimants aggrieved by the 50% contributory negligence attributed against the deceased, have filed the present appeal.

6. Heard the learned counsel for the appellants and the learned counsel for the respondents.

7.This Court has carefully considered the submissions made on either side and the materials available on record and this Court has also carefully gone through the award passed by the Tribunal.

8. In order to understand the manner in which the accident had taken place, the evidence of PW1, PW2 & RW1 read along with Ex.P1 (FIR), Ex.X1 (observation Mahazar) and Ex.X2 (Rough Sketch) must be carefully taken note of.

9. The cumulative reading of the available evidence shows that there was a centre median across the Trichy-Chennai National Highways. A particular place was earmarked for taking U-Turn. At this place, the deceased had admittedly take U-Turn without properly noticing the offending vehicle. Therefore, the deceased was dashed by the vehicle. The



Tribunal had attributed 50% contributory negligence on the deceased.

Whenever there is U-Turn provided in a national highway, the vehicles which are proceeding in the highway must slow down in a place earmarked for U-Turn in order to enable the vehicles to reach the main road.

10. In the case in hand, the offending vehicle was driven at a great speed and as a result, the driver of the offending vehicle did not have sufficient time to stop the vehicle on seeing the deceased attempting to get into the main road. Therefore, greater negligence has to be attributed only as against the offending vehicle. In view of the same, this Court is inclined to fix 80% negligence on the offending vehicle and 20% contributory negligence on the deceased. The quantum of compensation that has been fixed by the Tribunal under various heads are reasonable and it does not require the interference of this Court.

11. In the light of the above discussion, out of the total compensation of Rs.23,11,796/-, 80% has to be paid by the Insurance Company to the claimants which will work out to the tune of Rs.18,49,436/-. The same has to be paid with interest at the rate of 7.5% per annum.



C.M.A.No.1662 of 2023

WEB COPY

12. The compensation awarded by the Tribunal at Rs.11,55,898/- is hereby enhanced to Rs.18,49,436/-. The 2nd respondent is directed to deposit the enhanced compensation together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment, if not already deposited. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

13. In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

25.06.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



C.M.A.No.1662 of 2023

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- 1.The Principal District Judge,
Motor Accident Claims Tribunal,
Perambalur.
- 2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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C.M.A.No.1662 of 2023

N.ANAND VENKATESH, J.

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C.M.A.No.1662 of 2023

25.06.2024