



C.M.A.No.144 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 18.12.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.144 of 2021**

**And**

**C.M.P.No.973 of 2021**

HDFC ERGO General Insurance Company Limited  
6<sup>th</sup> Floor, Leela Business Park,  
Andheri Kurla Road,  
Andheri, East Mumbai 400 059.

... Appellant

Vs.

1.Karpagam  
2.Minor.Harini  
3.Minor.Gayathiri  
4.Minor.Thrisa

(Minors are represented by guardian and  
next friend mother 1<sup>st</sup> respondent Karpagam)

5.Visalakshi  
6.Silamban

... Respondents

**Prayer:**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 15.09.2015 made in M.C.O.P.No.13 of 2011, on the file of the Motor Accidents Claims Tribunal (Sub Court), Cheyyar.

For Appellant : Mr.K.Vinod  
For Respondents : No Appearance



C.M.A.No.144 of 2021

## **J U D G M E N T**

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The second respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 15.09.2015 passed by the Motor Accidents Claims Tribunal (Sub Court), Cheyyar, in M.C.O.P.No.13 of 2011.

2.The learned counsel appearing for the appellant submitted that the respondents 1 to 5 filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.9,90,000/- alleging that on 20.01.2010 at about 2.30 hours, in Villupuram to T.V.Malai Main Road near Vettavalam Main Road near Anjaneyar Koil, the TATA Ace Vehicle bearing Registration No.TN.25/K-3071 came in a rash and negligent manner and lost its control and met with an accident, due to which, the deceased Murugan who was a labour in the vehicle died on the spot. After adjudication, the Tribunal awarded a sum of Rs.6,70,280/- as compensation to the claimants along with interest at 7.5% p.a. from the date of filing i.e., 11.01.2011 to till the date of deposit with proportionate costs and directed the appellant to deposit the amount and to recover the same from the sixth respondent.

3.The learned counsel appearing for the appellant further



C.M.A.No.144 of 2021

submitted that the deceased and P.W.2 travelled in the vehicle insured with the appellant as un-authorized passengers. They attended marriage at Pondicherry and were returning back and at that time P.W.2 purchased some electrical goods and he asked the deceased to carry the said goods and hence, the deceased is not an employee of the owner of the vehicle. Even bare perusal of the deposition of P.W.2 would reveal that he engaged the deceased as loadman and the sixth respondent is not the employer of the deceased and hence, fastening the liability on the appellant is not sustainable one.

4.In support of his contentions, the learned counsel appearing for the appellant relied upon the decision of the Hon'ble Apex Court in 2013 ACJ 1 [Sanjeev Kumar Samrat Vs. National Insurance Co. Ltd. and others] and submitted that in the said decision, the Hon'ble Apex Court has held that when there is no employer and employee relationship between the owner of the vehicle and the deceased, the insurance company is not liable to pay any compensation.

5.Heard the learned counsel appearing for the appellant. Though the names of the respondents have been printed in the cause list, there is no representation for the respondents. Considering the



C.M.A.No.144 of 2021

pendancy of the civil miscellaneous appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

6.Perusal of records reveal that the deceased and P.W.2 were travelling in the vehicle owned by the sixth respondent. On 20.01.2010, when they were returning from Pondicherry, with or without consent of the sixth respondent, they purchased the electrical goods and the same was loaded by the deceased and one Sundaramoorthy. P.W.2 has deposed that the deceased was employed as labour to carry the electrical goods from Pondicherry to Vettavalam Village.

7.Perusal of Section 147 of the Motor Vehicles Act makes it clear that the owner of the goods or his authorised representative carried in the vehicle are entitled to claim compensation. In the present case, the deceased travelled as an authorized representative of the goods and hence, the Tribunal rightly awarded compensation to the claimants and directed the appellant to deposit the amount and to recover the same from the sixth respondent, which warrants no interference.



C.M.A.No.144 of 2021

WEB COPY

8.Insofar as the quantum of compensation is concerned, the Tribunal after considering all the factual aspects, awarded compensation which is just and reasonable and the same warrants no interference. The pay and recovery ordered by the Tribunal is confirmed.

9.The civil miscellaneous appeal is dismissed. The judgment and decree dated 15.09.2015 passed by the Motor Accidents Claims Tribunal (Sub Court), Cheyyar, in M.C.O.P.No.13 of 2011, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

**18.12.2024**

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,  
(Sub Court), Cheyyar.

5/6



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C.M.A.No.144 of 2021

**M.DHANDAPANI,J.**  
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