



C.M.A.No.3265 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3265 of 2024

1. Malarvizhi
2. Minor Lakshaya
3. Minor Piranika
(Minors Rep by their Next Friend /
Mother / 1st Petitioner viz Malarvizhi,) ... Appellants/Petitioners

Vs.

1. T.Vijayakumar
2. The Manager, ICICI Lombard General Insurance Co. Ltd ICICI
Lombard House, No.414, Veer Sarvarkar Marg, Prabhadevi, Mumbai –
400 025. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award Judgment and Decree dated 03.01.2023 in M.C.O.P.No.439 of 2020 on the file of the Motor Accidents Claims Tribunal, Krishnagiri, Special District Court for Motor Accidents Claims Cases, Krishnagiri, Krishnagiri District.

For Appellant : Mr.E.Kannadasan

For Respondents : Mr.J.Michael Visuvasam for
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JUDGMENT

The above appeal is filed by the appellants/claimants seeking to set aside the Judgment and Decree dated 03.01.2023 passed in M.C.O.P.No.439 of 2020 by the Motor Accidents Claims Tribunal, Krishnagiri, Special District Court for Motor Accidents Claims Cases, Krishnagiri, Krishnagiri District.

2. In view of the judgment being passed, notice to the first respondent is dispensed with.

3. It is the case of the appellants that, on 15.05.2016 at about 21.00 hours, when the deceased was walking on the side of the road with two others viz.Govindaraj and Sakthivel after getting down from an auto, at that time a motor cycle bearing Regn.No.TN 24 AD 7389 driven by the first respondent came in a rash and negligent manner and dashed against the deceased, due to which, the deceased along with two others sustained grievous injuries. Thereafter, the deceased was taking continuous treatment at VJS Hospital, Krishnagiri, despite the same, the



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deceased lost his life on 30.08.2016. Therefore, the appellants who are the dependents of the deceased have filed a claim petition claiming a sum of Rs.15,00,000/- for the injuries sustained by him in the said accident.

4. Before the Tribunal, the appellants have examined P.W.1 to P.W.3 and marked Exhibits P.1 to Ex.P.9. On the side of the second respondent, examined R.W.1 and R.W.2 and marked Exhibits Ex.R1 to R4. After adjudication, the Tribunal awarded a sum of Rs.1,50,000/- as compensation to the appellants. Not satisfied with the same, the appellants have preferred the present appeal seeking enhancement.

5. The learned counsel appearing for the appellants / claimants submitted that, due to the rash and negligent driving of the first respondent, the deceased sustained grievous injuries all over his body. The law enforcing agency has also registered a case against the rider of the two wheeler / first respondent. He further submits that though the deceased was 29 years at the time of accident, however, without considering the oral and documentary evidence, the Tribunal has passed



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an award granting a meagre sum of Rs.1,50,000/- which is wholly unsustainable.

6. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant and and the learned counsel for the second respondent and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. On a bare perusal of the evidence of P.W.3 i.e., Doctor reveals that the deceased sustained right 3rd rib fracture and abrasions due to the said accident and after complete recovery, the deceased was said to have been discharged from the Hospital. On the basis of the said evidence, the



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Tribunal has rightly come to a conclusion that there is no nexus between the injuries sustained by the deceased during accident and the cause of death, since there is no evidence on the part of the claimants to prove that the death of the deceased was only due to the injuries sustained by him at the time of accident. Moreso, in the absence of any income proof or medical bills to prove the claim of the appellants, upon perusing all the oral and documentary evidence, the Tribunal has rightly awarded a sum of Rs.1,50,000/- which is just and reasonable and the same does not require any interference.

9. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.439 of 2020 dated 03.01.2023 and the second respondent is directed to deposit the compensation of **Rs.1,50,000/-** awarded by the tribunal to the credit of MCOP.No.439 of 2020 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this



judgment, if not already deposited.

10. On such deposit being made, the Tribunal is directed to transfer the share of the first appellant, directly to the bank account of the first appellant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellants. The appellants/claimants are directed to pay necessary additional Court fee on the enhanced compensation amount.

11. Further, the Tribunal is also directed to deposit the share of the appellants 2 and 3/ claimants 2 and 3 in an interest yielding fixed deposit with any one of the Nationalised Banks, initially for a period of three years to be renewed at periodic intervals until she attains majority and interest derived from out of the said deposit shall be paid to the mother of the appellant 2 and 3 /Malarvizhi every quarter to be utilised for the welfare of the said minor claimant. After attaining majority, it is open to the appellant 2 and 3 to file necessary application to establish the majority, at which point of time, the Tribunal is directed to transfer the



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amount in the fixed deposit directly to the bank account of the appellants 2 and 3 through RTGS within a period of two (2) weeks thereafter. It is made clear that the appellants will not entitled to any interest for the delay period. No costs.

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Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
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M.DHANDAPANI, J.

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To

1. Motor Accidents Claims Tribunal, Krishnagiri, Special District Court for Motor Accidents Claims Cases, Krishnagiri, Krishnagiri District.
2. The Section Officer, V.R.Section, High Court, Madras.

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