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Civil Miscellaneous Appeal Nos.2299 of 2017 & 1525 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal Nos.2299 of 2017 & 1525 of 2020
and C.M.P.Nos.12292 of 2017 and 11250 of 2020

C.M.A.No.2299 of 2017

The Branch Manager,
The Oriental Insurance Company Limited,
Post Box No.11, 302, 3rd Floor,
Oasis Plaza, Tilak Road, Abids,
Hyderabad, Andhra Pradesh.

... Appellant

Vs.

1.Kantha
2.Chinna Nanjundan
3.Asokan (Minor)
(R3 minor represented by mother and next friend
first respondent)
4.Kesineni Srinivas
5.D.Appasamy
6.The Reliance General Insurance
Company Limited,
Anantapur, Andhra Pradesh.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.422 of 2013 dated 31.07.2015 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.



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Civil Miscellaneous Appeal Nos.2299 of 2017 & 1525 of 2020

For Appellant : Mr.J.Chandran

For Respondents : Mr.M.Sivakumar [R1 to R3]
Mr.S.Arunkumar [R6]
No appearance [R4 and R5]

C.M.A.No.1525 of 2020

The Reliance General Insurance Company Limited,
Anantapur, Andhra Pradesh.

... Appellant

Vs.

1.Kantha

2.Chinnananjundan

3.Minor Ashokan

(R3 minor represented by her mother and next friend
first respondent Kantha)

4.Kesineni Srinivas

5.The Branch Manager,

The Oriental Insurance Company Limited,

Post Box No.11, 302, 3rd Floor,

Oasis Plaza, Tilak Road, Abids,

Hyderabad, Andhra Pradesh.

6.D.Appasamy

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.422 of 2013 dated 31.07.2015 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.M.Sivakumar [R1 to R3]
No appearance [R4 and R6]



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COMMON JUDGMENT

For the sake of convenience, the parties are referred to as per their ranking in the Tribunal.

2. The case of the claimants is that on 01.03.2012, the deceased Chitambaram was traveling as a cleaner in Kesineni Travels bus belonged to the first respondent and insured with the second respondent. At about 05.30 a.m., when the bus was proceeding in NH 205 road, the engine of a Tractor and Trailer, fell down on the road, owing to which the driver of the bus stopped the bus, as a result, the deceased, who was seated in front of the bus was thrown out and died on the spot due to fatal injuries. It is under these circumstances, the claimants have filed the claim petition in M.C.O.P.No.422 of 2013 before the Motor Accident Claims Tribunal, Krishnagiri.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident has occurred only due to the rash and negligent driving on the part of the driver of the bus and held that the respondents 1 and 2 are



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liable to pay compensation and exonerated the fourth respondent Reliance General Insurance Company Limited since the petition is not maintainable as against the fourth respondent. While deciding the compensation under various heads, the Tribunal came to a conclusion that the following compensation can be awarded:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Future loss of income	9,72,000/-
2.	Loss of love and affection to the first and second claimants	2,00,000/-
3.	Loss of love and affection to the third claimant	25,000/-
4.	Transport to hospital	10,000/-
5.	Funeral expenses	25,000/-
	Total	12,32,000/-

The amount of Rs.12,32,000/- was directed to be paid along with interest at 9% p.a.

4. The second respondent Oriental Insurance Company Limited has filed the appeal in C.M.A.No.2299 of 2017 challenging the liability as well as the quantum of compensation.



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5. The fourth respondent/ Reliance General Insurance Company Limited has filed the appeal in C.M.A.No.1525 of 2020 challenging the liability on the ground that though the Tribunal has exonerated them from liability, erroneously, the Tribunal directed the fourth respondent to pay compensation along with respondents 1 and 2.

6. Since both the appeals arise out of the same accident and the same award, both the appeals are taken up together by this Court.

7. This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the award that was passed by the tribunal and the reasons assigned therein.

8. The claimants are parents and brother of the deceased. Considering the age of the deceased and the other circumstances, the Tribunal has awarded a reasonable compensation of Rs.12,32,000/- to the claimants. This Court finds the compensation awarded by the Tribunal as



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just and reasonable and the same does not warrant interference of this Court. Insofar as liability is concerned, the Tribunal, considering the materials placed before it, has rightly held that the first and second respondents are liable to pay compensation.

9. On a careful perusal of the award by the Tribunal, this Court finds that the Tribunal has categorically held that the fourth respondent/Reliance General Insurance Company Limited is not liable to pay compensation and exonerated them from paying compensation. However, in the operative portion of the award, the Tribunal had erroneously directed the fourth respondent/Reliance General Insurance Company Limited to pay compensation along with the respondents 1 and 2. In the given circumstances, this Court holds that the fourth respondent/Reliance General Insurance Company Limited is not liable to pay any compensation and accordingly, C.M.A.No.1525 of 2020 is to be allowed.

10. The compensation awarded by the tribunal at Rs.12,32,000/- shall be paid together with interest at 7.5% p.a (instead of 9% that was



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fixed by the tribunal). The second respondent/The Oriental Insurance Company Limited is directed to deposit the compensation, 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 four weeks from the date of receipt of this judgment. The other directions issued by the tribunal with regard to the mode of payment of compensation remains unaltered.

11. In the result, C.M.A.No.2299 of 2017 is dismissed and C.M.A.No.1525 of 2020 is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

05.11.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

ssb

To

The Motor Accident Claims Tribunal,
Special District Court, Krishnagiri.



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M.DHANDAPANI, J.

ssb

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