



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2986 of 2022
and CMP No.23219 of 2022

M/s.Reliance General Insurance Co., Ltd.,
Reliance House, 6th Floor,
No.6, Haddows Road,
Nungambakkam, Chennai - 600 034.

..Appellant

.VS.

1.K.Ellammal

2.K.Mahalakshmi

3.Minor K.Balaji @ K.Manikandan

4.Mino.K.Yogsh

Minors rep. by their mother, natural guardian K.Ellammal

5.Y.Pallakkudurai

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and Decree dated 01.04.2019 made in MCOP No.7105 of 2015 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.N.M.Muthurajan for R1 & R2
R3 Died



JUDGMENT

WEB COPY

The Insurance Company aggrieved by the Award passed by the Motor Accident Claims Tribunal in MCOP No.7105 of 2015 dated 01.04.2019 have filed this appeal questioning both the issue of negligence as well as the quantum of compensation fixed by the Tribunal.

2.The claimants are the wife, children and the mother of the deceased Kannan. The deceased is said to have driven a motor cycle from T.Nagar to Saidapet on 09.06.2015 and at about 23:00 hours, when the vehicle crossed CIT Nagar 1st Main Road, the Jeep belonging to the 1st respondent was driven in a rash and negligent manner and it grazed the motor cycle on its left side and due to its impact, the deceased fell down and sustained head injuries and died in the hospital. It is under these circumstances, the claim petition came to be filed by the claimants seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, come to a conclusion that the Jeep was driven in a rash and negligent manner and hence, the accident was caused only due to such negligence on the part of the Jeep driver. Having rendered such a finding, the Tribunal attributed 15% towards contributory negligence on the ground that the deceased was not wearing a helmet at the time of the accident and he had died due to



head injuries.

4.The Tribunal thereafter has fixed the total compensation at Rs.14,45,000/- in the following manner:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Towards Loss of future dependency (Rs.10000 x 12 x 13 x 3/4 + 25)	14,62,500
2.	Towards Loss of Estate	15,000
3.	Towards Funeral Expenses	15,000
4.	Towards Loss of Consortium	40,000
5.	Towards Loss of Love and Affection	1,67,500
	Total	17,00,000
DEDUCT: 15% towards the negligence of the deceased		2,55,000
Net Compensation payable		14,45,000

5.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

6.The Insurance Company aggrieved by the Award passed by the Tribunal has filed the present appeal questioning both on the ground of negligence as well as the quantum of compensation fixed by the Tribunal.

7.Heard Mr.S.Arunkumar, learned counsel appearing on behalf of the appellant



8.This Court has carefully considered the submissions made on either side and also the materials available on record.

9.The Tribunal has taken into consideration the eye witness account of PW2 in this case. There was no contra-evidence available and the veracity of the witness was also not under question. In view of the same, the Tribunal had found that the accident had taken place only due to the rash and negligent driving on the part of the Jeep driver. However, in one of the places, i.e., in Paragraph No.6 of the Award, the Tribunal has mentioned as if there was a rash and negligent driving of the motor cycle. This is clearly an inadvertent error that had crept in and reading the entire paragraph, it is seen that the Tribunal had attributed the negligence only on the offending vehicle viz., the Jeep belonging to the 1st respondent. In view of the same, this Court does not find any ground to interfere with the finding on the negligence.

10.Insofar as the compensation is concerned, this Court finds that reasonable compensation has been fixed by the Tribunal and the same does not require the interference of this Court.



WEB COPY

11. In the light of the above discussion, this appeal stands dismissed. This Court while admitting the appeal had directed 50% of the Award amount with accrued interest to be deposited and the same has been complied with. In view of the dismissal of this appeal, the balance 50% along with accrued interest shall be deposited within a period of four weeks from the date of receipt of copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

23.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.



WEB COPY



N. ANAND VENKATESH., J

ssr

CMA No.2986 of 2022
and CMP No.23219 of 2022

23.04.2024