



C.M.A.No.1345 of 2019, etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 14/11/2024

C O R A M

THE HONOURABLE Mr.JUSTICE **M.DHANDAPANI**

Civil Miscellaneous Appeal Nos.1345, 1349, 1412 and 1413 of 2019
and
C.M.P.Nos.3783, 3977, 3771 and 3984 of 2019

Shriram General Insurance Co Ltd
421012-Nagappa Complex, II Floor
1076 Metupalayam Road
North Coimbatore
Coimbatore 641 002.

...

Appellant

Vs

1. Suresh
2. S. S. Murugan

...

Respondents in
C.M.A.No.1345 of 2019

1. Muthuvel
2. S.S.Murugan

...

Respondents in
C.M.A.No.1349 of 2019

1. Narayanan
2. Sudhal
3. Ayyappan
4. S.S.Murugan

...

Respondents in
C.M.A.No.1412 of 2019

1. Ayyappan
2. S.S.Murugan

...

Respondents in
C.M.A.No.1413 of 2019



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PRAYER: Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 7/4/2016 made in M.C.O.P.Nos.474, 472, 456 and 473 of 2011 on the file of the Motor Accident Claims Tribunal (Sub-Court), Sathyamangalam.

For appellant ... Mr.S.Dhakshnamoorthy

For respondents ... For – R.1 – NDW

Mr.M.Guruprasad
for R.2

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed against the award and decree dated 7/4/2016 made in 474, 472, 456 and 473 of 2011 on the file of the Motor Accident Claims Tribunal (Sub-Court), Sathyamangalam.

2. It is the case of the appellant that the alleged accident had occurred on 23/9/2010 at 1.30 p.m., while the deceased Kuppammal and respondents in C.M.A.Nos.1349, 1413 and 1345 of 2019 were travelling in TATA EGG Locomotive lorry bearing Registration No.TDX-9027 on Seyur to Puliampatti road in south to north direction, driver of the lorry M.Kubendran



driven the lorry in a rash and negligent manner and while trying to overtake, when a vehicle came in the opposite direction, driver of the lorry lost the control and lorry was overturned in a pit, thereby, one Kuppammal was died and other co-passengers sustained injuries and sent to Government Hospital, Avenashi for treatment. Cheyur Police Station has registered the First Information Report in Crime No.952 of 2011 under Sections 279, 337 and 304 (A) of the Indian Penal Code.

3. The deceased was an agricultural coolie and growing cattle and earning a sum of Rs.9,000/- p.m. The injured claimants are doing sugarcane cutter works and growing sheep and earning a sum of Rs.9,000/- p.m. All the injured and legal heirs of the deceased filed a claim petition, claiming a compensation of Rs.1,00,000/-, Rs.3,00,000/-, Rs.15,00,000/- and Rs.1,00,000/- respectively.

4. Before the Tribunal, during trial, in order to prove the case, the claimants have examined P.Ws.1 to 5 and marked Exs.P.1 to P.19, and on the side of the Insurance Company, R.W.1 was examined and marked Ex.R.1. The Tribunal, after considering the pleadings, oral and documentary evidence, allowed the petitions and awarded a sum of Rs.50,790/-,



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Rs.1,34,660/-, Rs.6,66,000/- and Rs.53,129/- as compensation to the claimants along with interest. Aggrieved by the said award, the appellant/insurance company has filed the present appeals before this Court for quashment of the award.

5. The learned counsel for the appellant/insurance company submitted that the seating capacity of the goods vehicle is only three persons, including a driver, but four persons were travelled along with the driver which is in violation of Motor Vehicles Act. It is further submitted that even if the claimants are treated as loadman, statutory liability of the insurer ought to have been as per Workmen Compensation Act and not as per Motor Vehicles Act. Without considering the same, the Tribunal has awarded a sum of Rs.50,790/-, Rs.1,34,660/-, Rs.6,66,000/- and Rs.53,129/- for the disability, which is highly excessive, which warrants interference.

6. Heard Mr.S.Dhakshnamoorthy, learned counsel for the appellant/insurance company and Mr.M.Guruprasad, learned counsel for the claimants and also perused the materials available on record.



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7. The appellant insurer is not questioning the negligence, which has been fastened on the driver of the TATA EGG lorry bearing Regn. No.TDX-9027. The responsibility for the accident had been fixed on the driver of the above lorry and in the absence of any contention to the contra with regard to the negligence, this Court has no hesitation to confirm that the accident had happened on account of the negligent and rash driving by the driver of the lorry. In such a backdrop, the appellant, as the insurer of the lorry is jointly and severally liable to compensate the victims who have suffered injuries.

8. The main ground of attack with regard to the compensation awarded by the Tribunal rests on the number of occupants of the lorry, which, according to the appellant/insurer could be only three, excluding the driver and, therefore, it is a violation of policy condition and, therefore, the appellant is not liable to pay compensation.

9. Though such a contention has been advanced, the fact remains that even according to the appellant, the coverage extends to the driver and three persons, totalling four, who are insured under the policy. The driver, in the present case, has not filed any claim petition and it is only four persons, who are victims of the accident/legal heirs of the deceased, have filed claim



petitions claiming compensation. The compensation being payable to four persons for whom amount has been paid towards premium, the appellant/insurer cannot, under the guise of a technical objection, try to wriggle out of payment of compensation to all the victims, more particularly, when the policy covers persons, who are permitted to travel in the lorry as workers. Therefore, this Court finds no reason to interfere with the order of the Tribunal granting compensation to the legal heirs of the deceased as also the other victims in the accident.

10. The other ground on which the claim is resisted by the insurer is that the claim should have been preferred under the Workmen's Compensation Act and it cannot be adjudicated under the Motor Vehicles Act. Though such a contention is advanced, it is to be pointed out that both the provisions under the Workmen's Compensation Act as also the Motor Vehicles Act are benevolent legislations, which are aimed at providing compensation for the livelihood of the legal heirs and the victims. Such being the scenario, this Court, sitting under the appellate jurisdiction, could very well mould the appeal and consider the same to be one filed under the Workmen's Compensation Act so as to provide compensation to the victims. In such a view of the matter, this Court, in exercise of its powers,



considers the claim under the Motor Vehicles Act to be one under the Workmen's Compensation Act and, accordingly, proceeds to adjudicate the claim.

11. Insofar as CMA No.1349/2019 is concerned, the Tribunal, taking into account the evidence of P.Ws 2 to 5 and considering Ex.P-19, the disability certificate, in and by which the disability has been fixed at 20% and considering the nature of injuries suffered by the victim, adopting per percentage method, had fixed Rs.2,000/- per percentage of disability and awarded a sum of Rs.1,34,660/-.

12. Now the only issue that falls for consideration is the quantum of compensation awarded to the respective claimants and whether the same is just and reasonable or exorbitant?

13. In so far as C.M.A.No.1412 of 2019 is concerned, claimants are the legal heirs of the deceased. As per the evidence of P.W.1, the deceased was earning a sum of Rs.9,000/- p.m. However, no documentary evidence has been filed to substantiate the same. In the absence of any documentary evidence, Tribunal, based on the decision of the Hon'ble Apex Court in the



case of *SYED SADIQ ETC., Vs DIVISIONAL MANAGER, UNITED INDIA*

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INSURANCE CO has fixed the notional income of the deceased at Rs.5,000/- p.m., and after deducting 1/3 amount towards the personal expenses of the deceased has fixed the loss of monthly income to the family and adopting the multiplier of 14 has arrived at the loss of income to the family at Rs.5,60,000/-. The said compensation cannot be said to be exorbitant and it is based on the ratio laid down by the Hon'ble Apex Court. Further, compensation of Rs.6,66,000/- has been awarded under the various heads, viz.,

S.No.	Heads	Amount (in Rs.)
1.	Loss of dependency (Rs.5,000/- x ½ x 12 x 14)	5,60,000/-
2.	Loss of love and affection	75,000/-
3.	Funeral expenses	25,000/-
4.	Transport expenses	6,000/-
	Total	6,66,000/-

14. The said amount also cannot termed to be excessive and therefore, the total compensation of Rs.6,66,000/- quantified by the Tribunal is just and proper and the same does not require any interference.



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15. In so far as C.M.A.No.1349 of 2019 is concerned, Ex.P.19 is the disability certificate in which the Doctor who has treated the claimant had assessed the disability at 20%. The said assessment is based on the fact that the deceased has not undergone any surgery. Considering the grievous nature of injuries and also the effect of the said injuries which would have an impact on the daily life of the claimant, Doctor has fixed the disability at 20%. The fixation of the disability at 20%, considering the injuries sustained cannot be said to be on the higher side and the Tribunal rightly accepting the disability at 20% has awarded a sum of Rs.2,000/- per percentage of disability and arrived at the compensation towards disability at Rs.40,000/-. The same is just and reasonable and the same does not require any interference and the compensation of Rs.1,00,750/- has been awarded under the various heads, viz.,

S.No.	Heads	Amount (in Rs.)
1.	Compensation for permanent disability	40,000/-
2.	Loss of income	12,000/-
3.	Pain and suffering	25,000/-
4.	Attender's expense	10,000/-
5.	Special diet for his health	10,000/-
6.	Transportation expenses	3,750/-
	Total	1,00,750/-



WEB COPY 16. In so far as C.M.A.No.1413 of 2019 is concerned, the Tribunal after considering the evidence of P.W.3 and Ex.P.13 copy of the accident register, came to the conclusion that the injured has not got any grievous injuries and injuries are simple in nature. Moreover, the injured was earning a sum of Rs.9,000/- p.m., and to substantiate the same, he has not submitted any proof of his income before the Tribunal. Hence, the Tribunal has fixed the notional income at Rs.6,000/- p.m. Considering the fact that the injured has not got any grievous injuries, Tribunal has awarded a sum of Rs.39,750/- as compensation under various heads, viz.,

S.No.	Heads	Amount (in Rs.)
1.	Compensation for simple injuries	10,000/-
2.	Loss of income of the petitioner	6,000/-
3.	Pain and suffering	10,000/-
4.	Special diet for his health	10,000/-
5.	Transportation expenses (Ex.P.15)	3,750/-
	Total	39,750/-

17. In so far as C.M.A.No.1345 of 2019 is concerned, the Tribunal after considering the evidence of P.W.4 and Ex.P.16 copy of the accident register, came to the conclusion that the injured has not got any grievous



injuries and injuries are simple in nature. Moreover, the injured was earning a sum of Rs.9,000/- p.m., and to substantiate the same, he has not submitted any proof of his income before the Tribunal. Hence, the Tribunal has fixed the notional income at Rs.6,000/- p.m. Considering the fact that the injured has not got any grievous injuries, Tribunal has awarded a sum of Rs.39,750/- as compensation under various heads, viz.,

S.No.	Heads	Amount (in Rs.)
1.	Compensation for simple injuries	10,000/-
2.	Loss of income of the petitioner	6,000/-
3.	Pain and suffering	10,000/-
4.	Special diet for his health	10,000/-
5.	Transportation expenses (Ex.P.15)	2,000/-
	Total	38,000/-

18. In view of the above discussion in all the Civil Miscellaneous Appeals, this Court is of the considered opinion that the compensation awarded by the Tribunal to the claimants does not require any interference.



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19. In the result, these Civil Miscellaneous Appeals are dismissed and

a sum of Rs.38,000/-, Rs.1,00,750/-, Rs.2,22,000/- and Rs.39,750/- awarded by the Tribunal as compensation to the claimants are hereby confirmed. The appellant insurance company is directed to deposit the entire amount awarded by the Tribunal along with interest at the rate of 7.5% per annum, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this common judgment. On such deposit being made, the claimants are permitted to withdraw the compensation as awarded by the Tribunal along with interest and costs, less the amount, if any, already withdrawn, by filing an appropriate application before the Court concerned. No costs. Consequently, connected Miscellaneous Petitions are closed.

14/11/2024

mvs.

Index : Yes / No

Neutral Citation: Yes/No



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To

1. The Motor Accident Claims Tribunal (Sub-Court), Sathyamangalam.



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M.DHANDAPANI,J

mvs.

Civil Miscellaneous Appeal Nos.
1345, 1349, 1412 and 1413 of 2019

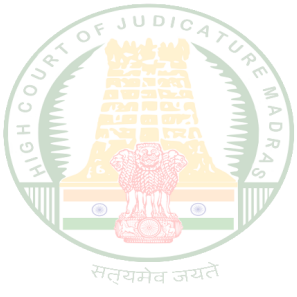
14/11/2024



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M.DHANDAPANI,J

Today, these matters have come up under the caption “For Being Mentioned”, at the instance of this Court.

2. It is brought to the notice of this Court that in the second line, in paragraph No.19, the amount awarded by the Tribunal in C.M.A.No.1412 of 2019 has been wrongly typed as 2,22,000/-, whereas it has to be typed as Rs.6,66,000/-.

3. This Court has perused the order dated 14/11/2024 made in C.M.A.Nos.1345, 1349, 1412 and 1413 of 2019 and finds that the amount awarded by the Tribunal has been wrongly typed as Rs.2,22,000/-, instead of Rs.6,66,000/-.

4. Accordingly, first three lines of paragraph No.19 should be typed and read as follows:-



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“In the result, these Civil Miscellaneous Appeals are dismissed and a sum of Rs.38,000/-, Rs.1,00,750/-, Rs.6,66,000/- and Rs.39,750/- awarded by the Tribunal as compensation to the claimants are hereby confirmed.”

5. Registry is directed to carry out the aforesaid correction and issue fresh order copy to the parties.

17/9/2025

mvs.

C.M.A.Nos.1345, 1349, 1412 and 1413 of 2019