



C.M.A.No.357 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.357 of 2024

and

C.M.P.No.3914 of 2024

National Insurance Company Limited,
Rep by its Branch Manager,
Office at:
No.92, Devapuram Road,
2nd Floor, Near Court Buildings,
Thoothukudi, Tuticorin 628 003.

...Appellant

Vs

1.Amsavalli
2.Valarmathi
3.Arun
4.Vinitha
5.Minor Rokith Vinay
6.Periyammal
7.P.Lingaraj
8.P.K.Santhanam
9.Annamalies Agencies,
Madurai Private Limited,
172, Dr.Rajendra Prasanth Road,
Tatabad, Coimbatore



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10.Iffco-Tokio General Insurance Company Ltd.,
Tulsi Chambers,, 3rd Floor,
195, T.V.Samy Road (W), R.S.Puram,
Coimbatore 641 002.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgement and decree dated 30.03.2015 made in MCOP.No.152 of 2013 on the file of Motor Accident Claims Tribunal, (Special District Court) Erode and to dismiss the above claim petition against the appellant.

For Appellant : Mr.K.Padmanabhan

For Respondent : Mr.S.Kaithamalai Kumaran for R1 to R3
Mr.S.Arunkumar for R10

JUDGMENT

The appeal has been filed against the quantum of compensation awarded by the Tribunal vide order dated 30.03.2015 in MCOP.No.152 of 2013.



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2. The learned counsel for the appellant would submit that on 29.06.2012, one Rajagopal along with the claimants were traveling in a car bearing Registration No.TN-66-B-9100 at Thoothukuti-Palayankottai Main Road, a container Lorry bearing Registration No.TN-69-AM-1226 came in a rash and negligent manner and dashed against the car, due to which the said Rajagopal died on the spot. Considering all the aspects the Tribunal had awarded the following compensation:

S.No	Particulars	Compensation (Rs.)
1	Loss of Consortium	10,000
2	Funeral Expenses	10,000
3	Loss of Estate	10,000
4	Transportation	5,000
5	Loss of Dependency	2,83,500
	Total	3,18,500

3. The learned counsel appearing for the appellant would submit that this appeal has been filed challenging the negligence and liability fastened against the insurance company. However, in the same subject matter, this Court had already uphold the negligence and liability fastened by the Tribunal vide



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judgment dated 16.11.2021 in CMA(MD).Nos.858 to 861 of 2016, which has been filed by the legal heirs of the other deceased persons in the same accident.

4. In view of the above, following the judgment dated 16.11.2021, this Court is also inclined to uphold the negligence and liability fastened by the Tribunal and hence, the same stands confirmed.

5. At this juncture, the learned counsel appearing for the appellant would submit that the main issue involved in this appeal is with regard to the fixation of liability and negligence against the appellant. However, the compensation awarded by the Tribunal is just and reasonable and hence, he requests this Court to confirm the same.

6. In reply, the learned counsel appearing for the respondent would also submit that the compensation awarded by the Tribunal is just and fair and hence, he would request this Court to confirm the same.



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7. Heard the learned counsel appearing for the appellant and the respondents and also perused the materials available on record.

8. In the present case, the accident was occurred in the year 2012 and due to the said accident 4 persons were died on the spot. At the time of accident, the deceased was aged about 65 years and he was a Pensioner. After taking into consideration of the receipt of pension of the deceased, the Tribunal had rightly fixed the notional income and awarded compensation towards loss of dependency. Further, the compensation awarded under the other heads also appears to be just and fair. Therefore, since there is no merit in the present case, this Court is inclined to dismiss this appeal.

9. In the result, this civil miscellaneous appeal is dismissed and the appellant is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.152 of 2013 on the file of the Motor Accident Claims Tribunal, Special District Court, Erode. Thereafter, the Tribunal is directed to



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immediately transfer the entire amount to the bank account of the claimant by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs. Consequently, the connected miscellaneous petition is also closed.

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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

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KRISHNAN RAMASAMY,J.

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