



C.M.A(MD)No.204 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2024

CORAM:

**THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

C.M.A(MD)No.204 of 2024

and

C.M.P(MD)No.2453 of 2024

The Branch Manager,
M/s.Reliance General Insurance,
Sri Meenakshi Plaza, First Floor,
Plot No.HIG 55, 80 Feet Road,
Anna Nagar,Madurai-625 020.

: Appellant/Respondent No.2

Vs.

1.A.Govindammal

: Respondent No.1/Petitioner

2.P.Radhakrishnan

3.M.Marudhupandian

4.The Branch Manager,

Chola MS General Insurance,
New Millienium Complex,
No.3 & 4,
First Floor, Dindigul High Road,
Kalavasal,
Madurai-625 010.

:Respondents 2 to 4/
Respondents Nos.1,3 & 4



C.M.A(MD)No.204 of 2024

WEB COPY

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 12.10.2023, passed in M.C.O.P.No.27 of 2021 by the Motor Accident Claims Tribunal/IV Additional District Judge, Madurai.

For Appellant : Mr.V.Sakthivel
For R1 : Mr.PT.S.Narendravasan
For R2 to R4 : No appearance

JUDGMENT

[Judgment of the Court was made by **K.K. RAMAKRISHNAN .J.**]

The appellant Insurance Company, aggrieved by the award passed by the Motor Accident Claims Tribunal/IV Additional District Judge, Madurai in M.C.O.P.No.27 of 2021, dated 12.10.2023, has preferred this appeal, questioning the quantum of compensation awarded by the tribunal.

2.For the sake of convenience, the parties are referred herein as per their ranking before the Tribunal.



C.M.A(MD)No.204 of 2024

WEB COPY

3. Even though the appellant filed this appeal challenging the negligence and quantum, now confine the appeal only for quantum.

4. The appellant Insurance Company is the second respondent in M.C.O.P.No.27 of 2021, on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Madurai. The first respondent is the claimant, who is the mother of the deceased. She filed the claim petition in M.C.O.P.No.27 of 2021, claiming a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) as compensation for the death of her son Balasubramanian in the accident that occurred on 25.07.2020. By the award, dated 12.10.2023, the Tribunal awarded a sum of Rs.31,04,000/- (Rupees Thirty One lakhs Four Thousand only) as compensation.

5.Facts of the Case:-

According to the claimant, on 25.07.2020 when the deceased was driving the motorcycle and Maruthupandi and his daughter Vasanthi travelled as pillion rider in the motorcycle bearing Registration No.TN-59-CW1308 in Vadipatti – Sholavandhan Road near Mettu



C.M.A(MD)No.204 of 2024

Neerathan Thirupathy Konar Plantain Garden at about 19.45 hours, the van belonging to the first respondent bearing Registration No. TN-59-BY-8767 in a rash and negligent manner coming from opposite direction dashed against the two wheeler and Maruthupandi and minor Vasanthi fell down from the vehicle and sustained multiple injuries and Balasubramanian, Maruthupandai and minor Vasanthi were taken to Vadipatti Government Hospital, where they were given first aid and thereafter, referred to Madurai Government Rajaji Hospital for further treatment. In spite of the treatment, Balasubramanian succumbed to the injuries on 26.07.2010 at Madurai Government Rajaji Hospital. The Inspector of Police Sholavandhan Police Station has registered a case in Cr.No.1430/2010 under Sections 279, 337 @ 304(A) IPC against the driver of the first respondent and after investigating the matter, the police has filed the final report.

6. The appellant filed the counter statement and denied all the averments made in the claim petition and contended that the accident did not occur due to the rash and negligent driving of the first respondent. The accident occurred due to the rash and negligent riding of the third



C.M.A(MD)No.204 of 2024

respondent vehicle. Therefore, the third and fourth respondents are liable to pay compensation and prayed for dismissal of the claim petition.

7.Before the Tribunal, on the side of the claimants P.Ws.1 & 2 were examined and Ex.P1 to Ex.P11 were marked. On the side of the respondents, no witness was examined and no document was marked.

8.Finding of the Tribunal:

The Tribunal, considering the pleadings, oral and documentary evidence and arguments of the counsel for the claimant and the respondents held that the accident occurred only due to the rash and negligent driving by the driver of the first respondent and directed the respondents 1 & 2 jointly and severally liable to pay the compensation of Rs.31,04,000/-(Rupees Thirty One Lakhs Four Thousand only) as compensation.

9.Submission of the learned counsel for the appellant:

The learned counsel appearing for the appellant/Insurance Company would submit that the deceased was working as a Electrician,



C.M.A(MD)No.204 of 2024

the Tribunal has taken a sum of Rs.15,000/- as monthly income. He further, submitted that the Tribunal has also deducted 1/3rd for personal expenses instead of 1/2, which is also against the judgment of ***Pranay Sethi*** and prayed for allowing the appeal.

10.Submission of the learned counsel for the respondent:

On the other hand, the learned counsel for the claimant/respondent No.1 would submit that the claimant is the widow and the tribunal has rightly deducted 1/3rd for his personal expenses and prayed for dismissal of the Civil Miscellaneous Appeal.

11. This Court considered the rival submissions made by both sides and also perused the materials available on record.

12. The following points arise for consideration in this appeal:

12.1. Whether the compensation granted is in accordance with law?

13. This Court accept the contention of the learned counsel for the appellant. As per the judgment in ***2017(2) TNMAC 609 (SC) [National Insurance Co. Ltd., v. Pranay Sethi]*** followed by ***SARLA VERMA AND OTHERS vs. TRANSPORT CORPORATION AND ANOTHER*** reported



C.M.A(MD)No.204 of 2024

in (2009) 4 MLJ 997, 1/2 is to be deducted instead of 1/3rd for personal and living expenses as the deceased was bachelor and the parents are claimants. The amount awarded by the Tribunal in all other heads are confirmed.

14. Accordingly, the award of the Tribunal is reduced as follows:-

Rs.15,000 as monthly salary + Rs.6,000/- (40% future prospects) = 21,000/- and deducted 1/2 as personal expenses = 10,500/- Rs.10,500 x 12 x 18 = 22,68,000/-. Therefore, the loss of income would be Rs.22,68,000/-.

15. In the result, this Civil Miscellaneous Appeal is partly allowed.

The award of the Tribunal is reduced to Rs.23,48,000/- from Rs.31,04,000/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of realization. The appellant Insurance Company is directed to deposit the modified amount, less the amount already deposited, if any, within a period of three weeks from the date of receipt of the judgment copy. On such deposit, the claimant is permitted to withdraw the amount. No costs. Consequently, connected civil



C.M.A(MD)No.204 of 2024

miscellaneous petition is closed.

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(V.B.S.J.) (K.K.R.K.J.)
11.03.2024

Index: Yes/No
Internet: Yes/No
am/sbn

To

1. The Motor Accident Claims Tribunal/
IV Additional District Judge, Madurai.
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.204 of 2024

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and
K.K. RAMAKRISHNAN.J.,

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C.M.A(MD)No.204 of 2024

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