

C.M.A.(MD) No.1229 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.12.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1229 of 2024

1.Rani Lakshmi,
2.R.Uthayakumar.

... Appellants

VS.

1.Alwin Jacob Kirubakaran,
2. V.Jeffrey Rozario,
3.The Branch Manager,
United India Insurance Company Limited,
Seethalakshmi Complex,
G.S.T.Road, Thirunagar,
Madurai.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1973, against judgment and decree dated 20.06.2024 passed in M.C.O.P.No.1227 of 2022 on the file of the Motor Accidents Claims Tribunal, Special District Court, Madurai.

For appellant : Mr.K.Sudalaiyandi



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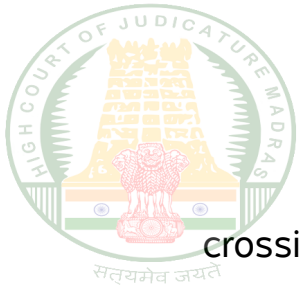
For Respondent
for R1 & R2 : No appearance
for R3 : Mr.C.Sundara Vadivel

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the legal heirs of the deceased Ramar (pedestrian) against the award, dated 20.06.2024 passed in M.C.O.P.No.1227 of 2022, on the file of the Motor Accidents Claims Tribunal/ Special District Court, Madurai.

2. Upon consideration, the Tribunal fixed the contributory negligence on the part of the deceased at 50%, on the ground that while the deceased was crossing the east-west road, the accident occurred and awarded compensation of Rs.13,58,881/- (50% of Rs. 27,17,761/-). Against this finding, the legal heirs of the deceased Ramar (pedestrian) have preferred this appeal.

3. In order to substantiate the case, P.W.2, (ocular witness) would state that at the time of accident, while the deceased was



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crossing the road from south to north direction and the rider of the two wheeler (TN-48-AK-0487) was proceeding from west to east in a rash and negligent manner, hit upon the pedestrian Ramar. On 09.04.2022, he died due to the injuries suffered in the accident. Hence, it was made clear that while the deceased Ramar (pedestrian) was crossing the road from south to north in east-west road, the accident had happened.

4. Considering the fact that the deceased while crossing the east-west road from south to north, hit by the two wheeler, this Court deems it fit to fix negligence on the part of the deceased at 25%. Therefore, the legal heirs of the deceased are entitled for Rs.20,38,000/- [25% of Rs.27,17,761/- = Rs.20,38,321/- (rounded off – Rs.20,38,000/-)].

5. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is modified from Rs.13,58,881/- to Rs.20,38,000/-.



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(iii) The third respondent/Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.20,38,000/- (less the amount already deposited if any) to the credit of M.C.O.P.No.1227 of 2022 on the file of Motor Accidents Claims Tribunal /Special District Court, Madurai, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants/appellants are permitted to withdraw their share amount as per the apportionment fixed by the Tribunal, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The claimants/appellants are directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

31.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
apd



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1.The Motor Accidents Claims Tribunal, Special District Judge,
Madurai.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R.KALAIMATHI,J

apd

Pre-delivery order made in
C.M.A.(MD) No.1229 of 2024

31.12.2024