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C.M.A.No.1669 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.No.1669 of 2025

and

C.M.P.No.14678 of 2025

The Branch Manager,
Reliance General Insurance Company Limited,
4th Floor, Reliance House,
Haddows Road, Nungambakkam,
Chennai - 600 006.

... Appellant / 2nd Respondent.

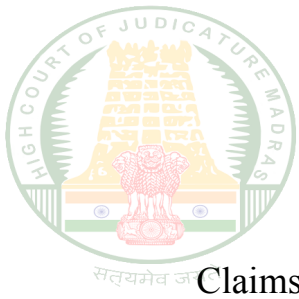
VS.

1. Subhashini W/o. Annadurai
2. Minor Mithra D/o. Annadurai
3. Minor Shalini D/o. Annadurai
[2 & 3 minors represented by their Guardian
Mother / 1st respondent]

4. Ramasamy S/o. Narayanasamy ... 1 to 4 Respondents / Petitioners

5. Mani / Subraya Setruar ... Respondent / Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the order dated 17.10.2024 in M.C.O.P. No.129 of 2024 passed by the Special District Judge, Motor Accident



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Claims Tribunal, Villupuram and to dismiss the same.

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For Appellant : Mr. P. Suresh Srinivasan

JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

This Civil Miscellaneous appeal has been preferred as against the fair and decreetal order passed by the Motor Accident Claims Tribunal, Special District Court, Villupuram in M.C.O.P. No.129 of 2024 dated 17.10.2024, wherein the respondents 1 to 4 herein have filed a petition claiming compensation of Rs.60 lakhs for the death of one Annadurai in a road accident. The Tribunal awarded a sum of Rs.27,23,000/- with interest @ 7.5% per annum from the date of petition till the date of realization of the amount by directing the appellant herein to pay the said amount within one month from the date of the Award. Aggrieved by the said Award, the present appeal has been preferred by the appellant / 2nd respondent Insurance company.

2. Before the Tribunal, the respondents 1 to 4 claimed compensation of Rs.60 lakhs for the death of one Annadurai alleging that on 16.02.2022 at about 4.30 p.m., the deceased Annadurai was travelling as a pillion rider in a vehicle bearing Registration No.TN32-AA-7686 from

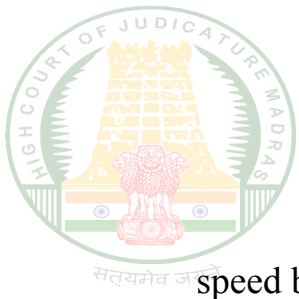


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Thiruvannainallur towards Malaiyambattu. At that time, a TATA ACE vehicle bearing Registration No.TN02-BL-7436 came from the back side in a rash and negligent manner, dashed against the two wheeler. Due to that impact, the deceased sustained injuries and he was taken to Government Medical College and Hospital, Mundiampakkam, where he was referred to JIPMER Hospital, Pondicherry and admitted there. In spite of the treatment, he died on 22.02.2022. The accident took place due to the negligence on the part of the driver of the TATA ACE vehicle. On the date of the accident, the deceased was aged about 38 years and he was earning Rs.30,000/- by doing agricultural work. The TATA ACE vehicle was insured with the appellant insurance company. The 5th respondent herein is the owner of the TATA ACE vehicle.

3. The appellant herein, being the 2nd respondent in the claim petition, filed a counter stating the fact that the TATA ACE vehicle was insured with the appellant on the date of accident and the driver of the vehicle had license on the date of accident. The claimants have to prove that the accident was occurred due to the negligence on the part of the driver of the TATA ACE van and the claimants are the legal heirs of the deceased. The driver of the TATA ACE van drove the vehicle in a normal



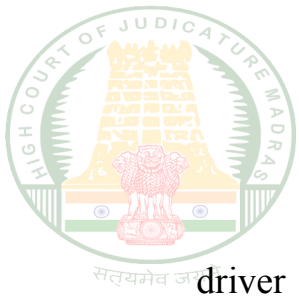
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speed by following the rules, but the accident occurred due to the negligence on the part of the deceased. Therefore, the petition is liable to be dismissed.

4. Based on the above pleadings, the Tribunal framed the appropriate points for determination that whether the driver of the TATA ACE van drove the vehicle in a rash and negligent manner and whether the petitioners are entitled to compensation as prayed for. Before the Tribunal, on the side of the claimants, the 1st respondent, being the 1st petitioner herein, was examined as PW1 and marked 16 documents. On the side of the appellant Insurance Company, being the 2nd respondent in the Claim petition, no oral or documentary evidences were adduced. After analysing the petitioner's side evidence in the claim petition, the Tribunal awarded a sum of Rs.27,23,000/- along with interest @ 7.5% per annum. Aggrieved by the said order, the present appeal has been preferred.

5. The learned counsel appearing for the appellant would submit that the Tribunal has not properly appreciated the legal evidences adduced by the appellant in the counter. The driver of the insured vehicle was not examined to establish the case and fix the negligence on the part of the



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driver of the vehicle. The claimants miserably failed to establish the negligence on the part of the driver of the mini TATA ACE. The Tribunal failed to consider that the accident was occurred due to the negligence on the part of the deceased. The Tribunal had erroneously fixed the earnings of the deceased as Rs.14,000/- and also added 40% future prospects. The claimants failed to produce any documents for the income of the deceased. Therefore, the Award passed by the Tribunal is liable to be set aside by allowing this appeal.

6. This Court heard the appellant's side and perused the records.

7. In this appeal, the appellant raised the main ground in respect of 'negligence' and the monthly income of the deceased. As far as 'negligence' is concerned, in order to prove the negligence on the part of the driver of the offending vehicle, before the Tribunal, the claimants have examined eye witness, who also sustained injuries in the said accident and he had deposed about the rash and negligent manner of driving by the driver of the offending vehicle namely TATA ACE bearing Registration No.TN02-BL-7436 and the FIR was also registered against the driver of the offending vehicle.

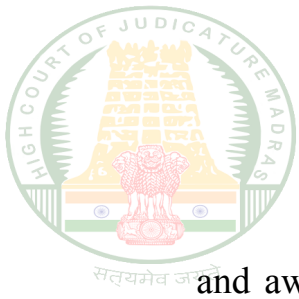


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8. There is no dispute that the offending vehicle is involved in the accident. While so, the claimants established through sufficient evidence that the accident was occurred due to the 'negligence' on the part of the driver of the TATA ACE van. In order to rebut the above said evidence, the appellant / 2nd respondent has not adduced any contra evidence. Therefore, in the absence of any contra evidence on the side of the appellant / 2nd respondent, the evidence adduced on the side of the claimants is acceptable. Therefore, the claimants have proved that the accident took place due to the 'negligence' on the part of the driver of the TATA ACE van. The Tribunal also, after analysing the evidence, correctly fixed the liability on the part of the driver of the TATA ACE van.

9. As far as the quantum is concerned, according to the claimants, the deceased was earning Rs.30,000/- per month. However, they have not produced any document to prove the same. But the Tribunal has taken the income of the deceased as Rs.14,000/- and awarded compensation. There is no dispute in respect of the age of the deceased. The age of the deceased was 38 years on the date of the accident. Thereby, the Tribunal has taken the multiplier as 15% and the Tribunal has also considered the age of the deceased and his nature of employment, added 40% for future prospects



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and awarded a sum of Rs.26,46,000/- under the head of 'loss of income'.

Further, the Tribunal awarded Rs.44,000/- towards 'consortium', Rs.16,500/- each under the heads of 'loss of estate' and 'funeral expenses'.

Totally awarded Rs.27,23,000/-. As far as the monthly income is concerned, the accident took place in the year 2022. As per the *Andal's case in Andal and ors vs. Avinav Kannan and others in C.M.A. No.2330 of 2017*, based on the cost of inflation index, the monthly income would come to Rs.15,973/-. The monthly income fixed by the Tribunal is less than the cost of inflation index and thereby, the Tribunal has awarded a reasonable amount. Therefore, this Court is unable to accept the contention of the learned counsel appearing for the appellant that the Tribunal has awarded excess compensation.

10. In view of the above discussions, this Court is of the opinion that there are no grounds to allow this Civil Miscellaneous Appeal and deserves to be dismissed.

11. Accordingly, the Civil Miscellaneous appeal is dismissed at the admission stage itself. No costs. The connected miscellaneous petition is closed.

(R.S.K.J.) & (P.D.B.J)

15.07.2025

mjs



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Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No

R. SURESH KUMAR,J
and
P.DHANABAL,J

(mjs)

To

The Special District Judge,
Motor Accident Claims Tribunal,
Villupuram.

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