



CMA.No.653 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :11.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.653 of 2025

K.Sivabakkyam

... Appellant

Vs.

1. S.Sudha
2. Sandhyashree (Minor)
3. Maniesh (Minor)
- 4.Radhakrishnan
5. The National Insurance Co.Limited
Motor Third Party Hub,
No.66, Greams Road,
Chennai-600 006

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the Judgement and Decree dated 10.04.2024 made in M.C.O.P. No. 234 of 2021 by the III Additional District and Sessions Judge, Motor Accidents Claims Tribunal, Thiruvallur at Poonamalle

For Appellants : Mr.S.Sankaralingam

For Respondent : Mr.K.Varadha Kamaraj for R1 to R3
R4-Notice dispensed with
Mr.C.Paranthaman for R5



CMA.No.653 of 2025

WEB COPY

JUDGMENT

The Civil Miscellaneous Appeal has been filed by one of the claimants namely mother of the fatal victim of a road accident.

2. It is not in dispute that the son of the appellant, husband of the first respondent and father of the minor respondents 2 and 3, namely Sivasankaran died in a road accident that had taken place on 26.08.2021.

3. Both the learned counsel appearing for the appellant as well as respondents have not advanced any arguments on the questions of negligence, liability and quantum. The appeal is filed by the mother of the victim seeking enhancement of her share in the award amount. Therefore, the facts necessary to decide the questions of negligence, liability and quantum are not discussed in this judgment.

4. The learned counsel for the appellant submitted that the entire medical expenses have been borne by the mother of the victim. However, the Tribunal awarded only Rs.3,00,000/- to the mother as against Rs.20,56,650/- awarded to 1st claimant/wife. Therefore, he seeks enhancement of the amount awarded to the share of the



CMA.No.653 of 2025

WEB COPY appellant/ the mother of the victim.

5. The learned counsel for the contesting respondents 1 to 3 submitted that there is no evidence available on record to show that the mother of the victim spent the medical expenses and the said point was not arised before the Tribunal.

6. Based on the evidence available on record, the Tribunal quantified the compensation payable to the claimants at Rs. 48,56,650/- The Tribunal awarded Rs.20,56,650/- to the share of the wife of the victim. Both the minor children were given a share of Rs.12,50,000 each. The appellant/ mother of the deceased was given a share of Rs.3,00,000/-.

7. It is the contention of the learned counsel for the Appellant that the entire medical expenses of Rs.11,78,842/- was met by the mother of the deceased and therefore, she is entitled to the said amount. In support of the said contentions, the learned counsel submitted that the wife of the victim, who was examined as PW1, was able to produce only the Xerox copies of the medical bills marked as Exhibit P5 and she also admitted that the originals were with her mother-in-law.



CMA.No.653 of 2025

WEB COPY

Thereafter, the originals were produced and marked as Exhibit P20.

Merely because earlier the Xerox copies of the bills were marked and later the original bills were produced before the Tribunal by PW1, we cannot assume that the mother of the victim had spent the entire amount. It is stated by the learned counsel for the Appellant that the mother of the victim borrowed amount in the name of her younger son and paid medical bills. In order to substantiate the same, neither the mother of the victim nor her younger son was examined before the Tribunal. In fact, all the claimants engaged same counsel and conducted the case together. Therefore, the submission made by the learned counsel for the Appellant that the entire medical bills were paid only by the mother of the victim by borrowing money through her younger son is not acceptable. However, taking into consideration the quantum of amount awarded by the Tribunal, this Court feels that amount of Rs.3,00,000/- fixed by the Tribunal towards the share of the mother is on the lower side. Therefore, the share of the mother is enhanced to Rs.5,00,000/- and the share of the 1st claimant/ wife of the deceased is reduced to Rs. 18,56,650/-



CMA.No.653 of 2025

WEB COPY

8. It is stated by the learned counsel for the 5th respondent/Insurance company that the entire amount has been deposited by the insurance company and the 1st claimant had withdrawn her share of Rs.20,56,650/-. Therefore, the 1st respondent/1st claimant is directed to deposit Rs.2,00,000/-(Rupees Two Lakhs Only) with the proportionate interest to the credit of MCOP.No.234 of 2021 on the file of III Additional District and Sessions Judge, Motor Accidents Claims Tribunal, Thiruvallur , Poonamalle within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/mother of the deceased is permitted to withdraw her entire share by making formal application before the Tribunal. In case, there is a failure on the part of the 1st respondent to deposit the amount, it is open to the appellant to recover the above said amount of Rs.2,00,000/- from 1st respondent through execution proceedings. In case, the 1st respondent failed to deposit the amount within the time stipulated, she is liable to pay the interest at the rate of 9% from the expiry of six weeks to the date of deposit.



WEB COPY



CMA.No.653 of 2025

9. In view of the above discussions, the civil miscellaneous appeal is partly allowed. No costs.

11.03.2025

Index:Yes/No
Internet:Yes/No
nr

To

1. Motor Accidents Claims Tribunal,
The III Additional District and Sessions Judge,
Thiruvallur at Poonamalle

2. The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



CMA.No.653 of 2025

S.SOUNTHAR, J.

nr

CMA No.653 of 2025

11.03.2025