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C.M.A.No.1999 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.No.1999 of 2025

and

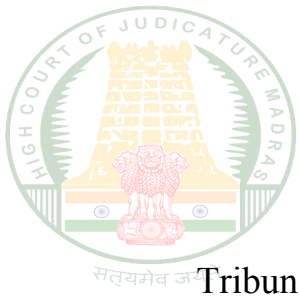
C.M.P.No.17509 of 2025

Reliance General Insurance Company Limited,
1st Floor, Sri Lakshmi Complex,
Omalur Main Road, Bharathi Street,
Swarnapuri, Salem - 636 004 ... Appellant / 2nd Respondent

VS.

1. Sangeetha W/o. Late Ganesan
2. Minor Mohana D/o. Late Ganesan
3. Minor Raghul S/o. Late Ganesan
4. Minor Sudhagar S/o. Late Ganesan
5. Minor Tamil S/o. Late Ganesan
[2 to 5 respondents represented by their Mother
Sangeetha W/o. Late Ganesan]
6. Susila W/o. Chinnathambi
7. Chinnathambi S/o. Aandi ... Respondents / Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Award dated 04.11.2024 in M.C.O.P. No.159 of 2022 passed by the Exclusive Motor Vehicles Accident Claims



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Tribunal, Dharmapuri and to dismiss the same.

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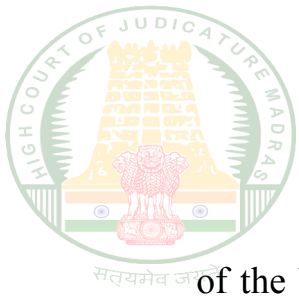
For Appellant : Mr. P. Suresh Srinivasan

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 Exclusive Motor Vehicles Accident Claims Tribunal, Dharmapuri in M.C.O.P. No.159 of 2022 dated 04.11.2024, wherein the respondents 1 to 7 herein have filed a claim petition, for the death of one Ganesan due to road accident, for a sum of Rs.30 lakhs and the Tribunal has awarded a sum of Rs.26,93,000/-. Aggrieved by the said order, the Insurance company / appellant / 2nd respondent has filed the present Civil Miscellaneous Appeal.

2. Before the Tribunal, the respondents 1 to 7 herein, being claimants, filed a petition alleging that on 24.11.2021 at about 5.45 p.m., while the deceased was proceeding in his motor bike bearing Registration No.TN29-AR-6720 in Polur-Karumandurai Road, near Edaiyapatti Veerapandi Nagar, the driver of the bus bearing Registration No.TN30-Q-3637 in negligent manner parked the bus in the half of the road without any parking lights or signal, thereby, the deceased dashed against the rear side



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of the bus and sustained injuries and died on the spot. The deceased was aged about 45 years and earned Rs.30,000/- per month through Tractor and earned Rs.1 lakh per year through agriculture.

2.1. Before the Tribunal, on the side of appellant / 2nd respondent, filed a counter stated that he denies the date, time, place, manner and the cause of the alleged accident and the claimants have to prove the age, avocation and income of the deceased. At the time of the accident, the deceased drove the motor cycle in high speed, rash and negligent manner and lost his control and dashed against the rear side of the bus and caused accident. The driver of the bus is not responsible for the accident. The accident happened due to the negligence on the part of the deceased.

2.2. Based on the above said pleadings, the Tribunal framed the following points for determination:

1) *Whether the petitioners prove that the deceased Ganesan died due to a Road traffic accident as averred in the petition?*

2) *Whether the petitioners prove that the accident occurred due to rash and negligent act of the driver of the bus bearing Registration No.TN30-Q-3637.*



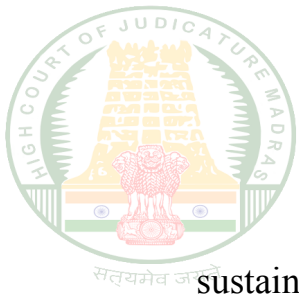
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3) *Whether the petitioners prove that they are entitled for compensation. If so, to what extent and from whom/*

2.3. Before the Tribunal, on the side of the appellant / 2nd respondent, RW1 was examined, but no documents were marked. Per contra, on the side of the respondents 1 to 7 / petitioners, they examined PW1 and PW2 and marked Ex.P.1 to Ex.P.25. After evaluating the oral and documentary evidences adduced on either side, the Tribunal allowed the petition in part and awarded a sum of Rs.26,93,000/- by directing the appellant / 2nd respondent to pay the said amount with interest @ 7.5% per annum from the date of petition till the date of deposit by excluding the period of dismissal for default if any. Aggrieved by the said order, the Insurance Company / 2nd respondent has preferred this appeal on the ground of 'negligence' and 'quantum'.

3. The learned counsel appearing for the appellant would submit that the accident took place due to the negligence on the part of the deceased. The deceased due to his negligence dashed against the parked vehicle. The driver of the bus parked the vehicle by lightening the indicators and without listening the same, the deceased dashed against the bus and



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sustained injuries and died on the spot. Therefore, the negligence is solely on the part of the deceased. However, FIR has been registered as against the driver of the bus. The Tribunal without considering the same, fastened the 'negligence' only on the part of the driver of the bus. No records were produced by the respondents / petitioners to prove the income of the deceased. The Tribunal fixed the notional income of Rs.14,000/- and the same is on higher side. Therefore, the compensation awarded by the Tribunal is excess and the same is liable to be set aside.

4. This Court heard the appellant side and perused the records.

5. Now the point for consideration in this Civil Miscellaneous Appeal is that ***whether the accident was occurred due to the negligence on the part of the driver of the bus and the notional income fixed by the Tribunal is fair or not.***

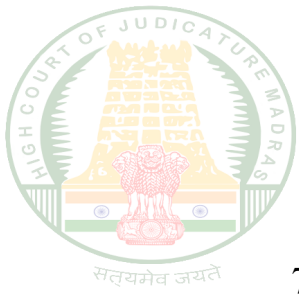
6. The appeal has been preferred on the ground of 'negligence' as well as 'quantum'. There is no dispute in this case in respect of the accident and the involvement of the vehicle in the accident, which has been insured with the appellant / 2nd respondent. According to the appellant, the



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accident took place due to the 'negligence' on the part of the deceased and he dashed against the parked vehicle. Before the Tribunal in order to prove the 'negligence' is on the part of the driver of the bus, the respondents / claimants examined PW2, who is an eye witness to the accident and he deposed about the negligence on the part of the driver and no parking lights were lightened at the time of parking. Per contra, on the side of the appellant / 2nd respondent, he examined RW1, who is the driver of the bus and he deposed that when he was driving the bus slowly, the bus suddenly stopped by itself and so, he slowed picked up the bus and stopped it on the left extreme of the Road and then, he put stones in the front and back of the bus and also put an indicator and was checking the bus and 20 minutes later, a motor cyclist dashed on the rear side of the bus. However, in the counter, the 2nd respondent has not stated about the indicator and signal. In the cross examination, he stated that a police case is pending against him. An FIR was also registered against the driver of the bus. Therefore, the Tribunal fixed the negligence on the part of the driver of the bus. The above said findings of the Tribunal are based on the evidences and there is no any infirmity or illegality found in the findings rendered by the Tribunal in respect of the 'negligence'.



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7. As far as the 'quantum' is concerned, though the claimants claimed in the petition that the deceased was earning Rs.1 lakh per annum through agriculture and Rs.30,000/- per month as a Tractor owner, no sufficient documents were produced to prove the same. Therefore, the Tribunal fixed Rs.14,000/- as notional income and the same is a reasonable one. Therefore, the Tribunal considering the age, income and the dependents, awarded a sum of Rs.26,93,000/-. Even as per the case *in Andal and ors vs. Avinav Kannan and others in C.M.A. No.2330 of 2017*, for the year 2021, the amount would come as Rs.15,167/-. However, the Tribunal fixed on lower side only. Further, the respondents / claimants have not preferred any appeal. Therefore, the Tribunal has fixed a reasonable amount. With regard to other headings, there is no dispute. Therefore, the Award passed by the Tribunal is based on the evidences and it is just and a fair compensation, which does not warrant interference.

8. Therefore, this Court finds no any illegality or perversity in the order passed by the Tribunal and therefore, this Court is of the opinion that there is no merits in this appeal and inclined to dismiss this appeal without even issuing notice to the respondent at the stage of admission itself.

9. Accordingly, the Civil Miscellaneous appeal is dismissed. No



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costs. The connected miscellaneous petition is closed.

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

25.07.2025

mjs

Internet : Yes

Index:Yes/No

Neutral Citation:Yes/No

To

The Exclusive Motor Vehicles Accident
Claims Tribunal,
Dharmapuri

R. SURESH KUMAR,J



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C.M.A.No.1999 of 2025

and
P.DHANABAL,J

(mjs)

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