



C.M.A.No.58 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.03.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.58 of 2023
and C.M.P.No.536 of 2023

Shriram General Insurance Company Limited,
Represented by its Branch Manager,
E-8, RIICO Industrial Area,
Sitapura, Rajasthan.

... Appellant

VS.

1.Thangamani

2.Magudeswaran

3.Amaravathi

4.S.Kalimuthu

5.A.Durai Shanmugam

6.Ramasamy

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the decree and judgment dated 27.01.2020 made in M.C.O.P.No.44 of 2014, on the file of Motor Accidents Claims Tribunal, Subordinate Court, Udumalpet.

For Appellant : M/s.V.Pushpa



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For R1 to R3, R5
and R6 : Mr.D.R.Arunkumar

For R4 : Exparte

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the Appellant/Insurance Company challenging the award passed by the Motor Accident Claims Tribunal, Subordinate Court, Udumalpet in M.C.O.P.No.44 of 2014, dated 27.01.2020.

2. The respondents 1 to 3/claimants filed a claim petition seeking compensation for the death of one Palaniammal. It is the case of the claimants that on 23.11.2013, when Palaniammal crossed the Udumalpet – Palani NH Road from North to South carefully, a lorry belonged to 5th respondent was driven by the 4th respondent in a rash and negligent manner and dashed against the said Palaniammal. As a result of the accident, she died on the spot. Therefore, a claim petition was filed seeking compensation of Rs.15,00,000/-.

3. The Appellant herein insurer of the lorry filed counter and resisted



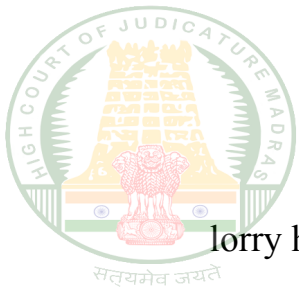
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the claim petition by denying the manner of accident as described in the claim petition. It was the specific case of the appellant that the accident had occurred only due to the negligence on the part of the deceased-Palaniammal. The appellant also denied the age and avocation of the deceased. It was also stated that the claimants were not dependents of the said Palaniammal and hence, they were not entitled to maintain claim petition seeking compensation.

4. Before the Tribunal, the 1st respondent/1st claimant was examined as PW.1. On the side of the respondents 1 to 3/claimants, 16 documents were marked as Exs.P1 to P16. On behalf of the appellant and respondents 4 to 6, two witnesses were examined as Exs.RW.1 and RW.2 and 2 documents were marked as Exs.R1 and R2.

5. The Tribunal on careful analysis of evidence available on record, came to the conclusion that accident had occurred only due to the rash and negligence driving of the lorry by its driver. The Tribunal quantified the compensation payable to the claimants and the 6th respondent herein at Rs.5,84,472/-. Aggrieved by the same, the Insurance Company-insurer of the



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lorry has come by way of this appeal.

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6. The learned counsel appearing for the Appellant-Insurance Company would submit that claimants are children of deceased person's sister and they were not depending on the victim at the time of accident. Therefore, according to him, the claim petition filed by them was not maintainable.

7. It is not in dispute that the respondents 1 to 3/claimants are children of deceased Palaniammal's sister Valliammal. The Tribunal found that 6th respondent also son of deceased Valliammal and hence, he is also entitled to compensation along with respondents 1 to 3/claimants. In order to prove the dependency, the 1st claimant-Thangamani entered the box and deposed that Palaniammal had been looking after the claimants out of her earnings. Though in the cross examination, she deposed that she had not filed any document to prove that all claimants were living along with Palaniammal as one family, the Tribunal based on family card marked as Ex.R1 in M.C.O.P.No.118 of 2015 came to the conclusion that the claimants and deceased Palaniammal had been living under the same roof.



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8. Based on the evidence of PW.1 and Ex.R1, the Tribunal came to the conclusion that the claimants were entitled to maintain the claim petition seeking compensation of Rs.15,00,000/-. The said finding is based on proper appreciation of evidence available on record and hence, no interference is called for.

9. The accident had occurred in the year 2013, the Tribunal fixed the notional income of the deceased at Rs.7,000/- per month. Based on post-mortem report, the age of the deceased was fixed as 60 years and the Tribunal granted 10% enhancement towards future prospects and applied multiplier of 9. The same is in accordance with the law laid down by the Apex Court in *Sarla Verma and others vs. DTC and others* reported in (2009) 6 SCC 121 and *National Insurance Company Limited vs. Pranay Sethi and others* reported in (2017) 16 SCC 680.

10. The Tribunal deducted 1/3rd amount towards her personal expenses and arrived at the loss of dependency as Rs.5,54,472/-. The amount



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awarded by the Tribunal under various other heads like funeral expenses and

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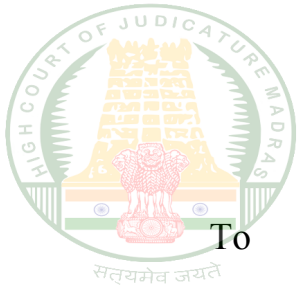
loss of income are in accordance with law and the same are confirmed.

Therefore, I do not find any reasons to interfere with the award passed by the Tribunal.

11. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

17.03.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
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To

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- 1.The Motor Accidents Claims Tribunal,
Subordinate Court, Udumalpet.
- 2.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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