



C.M.A.No.1833 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 06.01.2025**

CORAM :

**THE HONOURABLE MR. JUSTICE M. DHANDAPANI**

**C.M.A.No.1833 of 2021**

**and**

**C.M.P.No.9852 of 2021**

The Divisional Manager,  
National Insurance Company Ltd.,  
Vellore District.

... Appellant

Vs.

1.Annamalai  
2.Amsammal  
3.S.Aravind  
4.Muthusamy @ Thavamani

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 05.06.2020 made in M.C.O.P.No.49 of 2014 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Cheyyar.

For Appellant : Mr.D.Bhaskaran

For Respondents : Dismissed as abated vide order  
dated 03.07.2024 [R1]  
Mr.K.G.Senthil Kumar [R2]  
Notice Dispensed with vide  
order dt. 07.06.2023 [R3]  
Mr.S.L.Venkatesan [R4]

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## **JUDGMENT**

**WEB COPY** Challenging the award dated 05.06.2020 passed by the Motor Accidents Claims Tribunal (Subordinate Judge), Cheyyar in M.C.O.P.No.49 of 2014, the Insurance Company has come up with the above Appeal.

2. On 22.02.2014, about 5.45 p.m., while the deceased Chinnaponnu was travelling as a pillion rider in a two wheeler bearing Regn.No.TN-25-AV-2290, being driven by one Subramani, on Malayampattu Koot Road from Arani to Polur, near Kalambur, a car bearing Regn.No.TN-07-BS-7936, belonging to the 1<sup>st</sup> respondent, which was insured with the 2<sup>nd</sup> respondent, driven by its driver in a rash and negligent manner, dashed against the two-wheeler, due to which Chinnaponnu sustained grievous head injury. Immediately, Chinnaponnu was admitted in Government Hospital, Arni and there, she was referred to Government Hospital, Vellore. While on the way to Government Hospital, Vellore, Chinnaponnu died. Aggrieved by the death of Chinnaponnu, respondents 1 and 2, who are her aged parents, filed a Claim Petition in M.C.O.P.No.49 of 2014 seeking a sum of Rs.9,00,000/- as compensation.



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3. Before the Tribunal, on behalf of the claimants, P.W.1 and P.W.2 were examined and eight documents viz., Ex.P.1 to Ex.P.8 were marked. On the side of the Insurance Company, R.W.1 was examined and seven documents viz., Ex.R.1 to Ex.R.7 were marked. After adjudication, the Tribunal had partly allowed the Claim Petition and awarded a sum of Rs.2,14,220/- as compensation to the claimants. Challenging the same, the same, the present Appeal has been filed by the Insurance Company.

4. Learned counsel appearing for the Appellant/Insurance company vehemently contended that the Claims Tribunal failed to note that on the basis of the Legal Heir Certificate issued by the Authority concerned, the Appellant/Insurance Company has settled the claim filed by the husband of the deceased on the file of the Lok Adalat and deposited the compensation amount in the Court. Hence, according to the learned counsel, the second award of Rs.2,14,220/- for the same cause of action is liable to be set aside.

5. Per contra, learned counsel appearing for the 2<sup>nd</sup> respondent submitted that, the deceased Chinnaponnu was taking care of her parents



at their old age, as there are no other siblings to take care of them.

Hence, according to the learned counsel, the Tribunal is right in awarding compensation to respondents 1 and 2 and he prayed for dismissal of the Appeal.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The claimants are the father parents of the deceased, while the 3<sup>rd</sup> respondent is the husband of the deceased. There is no quarrel with the fact that the legal heir certificate is issued to the 3<sup>rd</sup> respondent, being the husband of the deceased. However, it is the specific case of the claimants that the deceased, viz., the daughter was taking care of them at their old age, as there are no other siblings to take care of them. The compensation is quantified and paid to the claimants under the Motor Vehicles Act to compensate the loss of dependency on account of the death of the bread winner, in view of the benevolent provisions under the Motor Vehicles Act.



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8. It is the contention of the learned counsel appearing for the appellant that a claim in respect of the death of the deceased had been paid to the 3<sup>rd</sup> respondent before the Lok Adalat and, therefore, a second claim is impermissible. However, there is no material placed before this Court to show that the claimants herein were shown as respondents in the claim petition filed by the 3<sup>rd</sup> respondent herein. Mere legal heir status alone cannot form the basis to provide the claim to the legal heirs, as the compensation is paid to offset the loss due to the death of the bread winner to the dependants.

9. Further, no material has been placed either by the appellant/insurance company or the 3<sup>rd</sup> respondent to counter the averment that the claimants are not dependant on the deceased. There is also no material to show that the deceased had siblings, who could very well take care of the claimants. The claimants are the age old parents of the deceased. In fact, it is the specific averment of the claimants even in the claim petition that upon getting the compensation amount, the 3<sup>rd</sup> respondent is proceeding to get himself into a second marriage unmindful of the loss of his wife. The parents, viz., the claimants on the



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other hand, are not only grieving individuals, but dependant individuals, who look forward to their bread from the hands of the deceased, which has since been robbed on account of the untimely death of the deceased. The 3<sup>rd</sup> respondent, being the son-in-law of the claimants, if really was interested in the welfare of his in-laws, viz., the claimants, ought to have stepped into the shoes of his spouse, viz., the deceased and taken care of her parents, like his parents, which would vindicate his stand that he is a good son-in-law, but the 3<sup>rd</sup> respondent, as per the averment of the claimants, is planning on remarriage, which, though not precluded, but his act would put him in a gloomy shade when the dependency of the parents of the deceased is looked at.

10. As aforesaid, compensation is paid under the head loss of dependency to the grieving individuals, who are unable to cope with the loss of their bread winner. In the present case, the deceased, being the feeder of the claimants, her untimely death had hit at the dependency of the claimants and, therefore, when the insurance company had settled the claim based on the legal heir certificate, it ought to have taken into issue the state of the parents of the deceased as well, which would have been



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the prudent approach on the part of the insurer. However, merely on the basis of the legal heir certificate, the appellant had paid the compensation to the 3<sup>rd</sup> respondent, which alone cannot be put against the claimants to negate their claim for compensation.

11. The Motor Vehicles Act is a benevolent legislation, which is aimed at securing the life of the individuals, who are under the shelter as dependents and on the death of the bread winner, they are thrown out to the streets and only to cater to their safety and to lead a decent life, the provisions of the Motor Vehicles has, through payment of compensation, covered the safety of the dependants of the deceased. Therefore, dependency is a crucial aspect, which has got to be taken into account and it is not only the legal heir certificate, which would form the basis to pay the compensation.

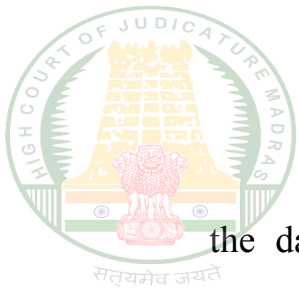
12. In the case on hand, as stated above, based on a legal heir certificate produced by the 3<sup>rd</sup> respondent, without ascertaining the dependency particulars, a settlement was arrived at in the Lok Adalat behind the back of the claimants. Lok Adalat is a forum, which eases the



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settlement process, but it should not be utilised to scuttle rightful claims of dependents for whose benefit the Motor Vehicles Act has been enacted. However, the dependants, viz., the claimants, have not been taken into consideration when the award had come to be passed by the Lok Adalat and the insurer had also not taken any preventive measures to ascertain about the dependants of the deceased before settling the 3<sup>rd</sup> respondent, which act cannot be put against the claimants. Therefore, the quantification of compensation payable to the claimants by the Tribunal to be paid by the insurer cannot be held to be unjust, arbitrary or unreasonable. Therefore, I do not see any reason to interfere with the compensation awarded by the Tribunal and this appeal deserves to be dismissed.

13. Accordingly, the Civil Miscellaneous Appeal is dismissed and the impugned award passed by the Motor Accidents Claims Tribunal (Subordinate Judge), Cheyyar in M.C.O.P.No.49 of 2014, dated 05.06.2020 is confirmed. The Appellant-Insurance Company is directed to deposit the award amount to the credit of M.C.O.P.No.49 of 2014 along with interest at 7.5% per annum from the date of claim petition till



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the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount as per the apportionment of the Tribunal, directly to the Bank Account of respondents 1 and 2/claimants, through RTGS within a period of two (2) weeks. No costs. Consequently, the connected civil miscellaneous petition is also dismissed.

**06.01.2025**

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|-----------------------|---|----------|
| Index                 | : | Yes / No |
| Speaking order        | : | Yes / No |
| Neutral Citation Case | : | Yes / No |
| sp                    |   |          |

To

The Motor Accidents Claims Tribunal (Subordinate Judge), Cheyyar.

Copy to

The Section Officer, V.R. Section, High Court, Madras.



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**M.DHANDAPANI, J.,**

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