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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1082 of 2024
and
CMP No. 10032 of 2024

The Branch Manager
Royal Sundaram General Insurance Co.Ltd., Old No.113 and 114, New No.18 and 20, No.4B, 4th Floor, A Block, Mena Kampala Arcade, Sir Theyagaraya Road, T. Nagar, Chennai - 017.

Appellant

Vs

1. PARVATHY

2.PUSHPANATHAN

3.Minor Parthasarathy
S/O. Pushpanathan, (Minor rep. by next friend/Mother/Parvathy)

4.G. Gopi

Respondents

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PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to set aside the award passed by the tribunal in the above MCOP No.165 of 2019 on the file of the Presiding Officer, Exclusive Motor Accidents Claims Tribunal, Dharmapuri dated 12.01.2024.

For Appellant:	Mr. M.Krishnamoorthy
For Respondents:	Mr.S.Udhayakumar For R1 To R3 R4 - Notice Dispensed With

JUDGMENT

Challenging the impugned award passed by the Motor Accident Claims Tribunal, Sub-Judge, Dharmapuri in MCOP No.165 of 2019, dated 12.01.2024, the appellant/5th respondent insurance company preferred this Civil Miscellaneous Appeal.

2.The case of the respondents/petitioners 1 to 3 is that on 02.08.2018 at about 02.00 p.m. when the deceased Jaganathan was proceeding in a two wheeler bearing Regn. No. TN-02 BF-3540 on Villivakkam North Redhills road and while nearing in front of 'IN STYLE' shop, a tanker lorry bearing Regn. No.TN-18-P-9934 came from behind, driven by its driver in a rash and

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negligent manner, dashed him and caused an accident. Due to which, he sustained grievous injuries and he died on the way to hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.32,07,208/- under various heads and the said compensation was directed to be paid with interest at the rate of 7.5% per annum.

4.The Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeal before this Court.

5. The learned counsel for appellant argues that there is a negligence on the side of deceased also, but the tribunal fixed entire liability upon the appellant as such is erroneous one.

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6. By way of reply, the learned counsel for respondents 1 to 3 raised strong objections stating that there is no negligence on the side of deceased and to that effect, there is no evidence adduced before the tribunal by the appellant. Hence, they prayed to dismiss the appeal as no merit.

7. On perusal of award, it shows that no reason adduced on the side of appellant as well as 4th respondent both owner of vehicle and insurance company. Therefore, the alleged negligence pleaded by the appellant as such is not sustainable. While awarding compensation, the deceased was unmarried, but the deduction was made by the tribunal as 2/3rd instead of 1/2. To that effect, the objections raised by the appellant is sustainable. Accordingly, 50% of award amount towards personal living expenses is to be arrived. The learned counsel also raised objections with regard to take home salary, which comes only Rs.12,519 as per the evidence of P.W.3, but admittedly, he was working as Customer Relationship Executive in Talentpro India HR Pvt. Ltd. and he earned Rs.15,309/- per month. The accident was happened in the year 2018. So, considering the cost of living, this Court is inclined to fix the notional monthly income, which comes around Rs.15,309/- and in view of other allowances, the

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said salary was fixed. On considering the year of accident, the notional monthly income would be arrived at Rs.15,309/-. Therefore, the salary fixed by the tribunal is sustainable one and the balance amount is ordered to be deposited by the appellant insurance company within a period of eight weeks from the date of receipt of copy of this judgment and on such deposit, the respondents 1 to 3 are permitted to withdraw the amount. Accordingly, the award passed by the tribunal in MCOP No. 165 of 2019 is confirmed. Accordingly, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

25-06-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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To

1. Motor Accident Claims Tribunal, Dharmapuri.

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

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T.V.THAMILSELVI J.

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CMA No. 1082 of 2024

25-06-2025

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