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C.M.A.No.2730 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2730 of 2021

Balaji (since died)

1.Prabavathi

2.Harish

3.Karthik

... Appellants

Vs.

1.R.Vijayakumar

2.Shriram General Insurance Company Limited,

Plot No.66, 2nd Floor,

City Centre Complex,

Thirumalai Pillai Road,

T.Nagar, Chennai – 600 017.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and be pleased to enhance the amount awarded in M.C.O.P.No.2124 of 2012 dated 17.12.2020 on the file of the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai, as prayed for with interest and cost.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : R1 – No Appearance

Mrs.R.Sreevidhya for R2

J U D G M E N T

This appeal has been filed against the judgment and decree



C.M.A.No.2730 of 2021

dated 17.12.2020 passed by the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai, in M.C.O.P.No.2124 of 2012.

2.The learned counsel appearing for the appellants submitted that on 19.03.2012, at about 12.30 hours, the original claimant/ Balaji was riding the motorcycle bearing Registration No.TN-02-L-1101 at K.H.Road in front of Door No.142, Ayanavaram, Chennai. At that time, the lorry bearing Registration No.TN-07-AZ-7848 proceeding in the same direction came in a rash and negligent manner and dashed the motorcycle, due to which, the original claimant sustained injuries. Thereafter, the original claimant filed claim petition before the Tribunal, claiming compensation of Rs.50 Lakhs. During the pendency of the claim petition the said Balaji died on 28.11.2012 and his legal heirs/ appellants herein were impleaded in the claim petition.

3.The learned counsel appearing for the appellants further submitted that after adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.22,43,888/- rounded off to Rs.22,44,000/- with interest at the rate of 7.5% p.a. from the date of numbering of petition i.e., 30.04.2012 till the date of realization and costs and directed the second respondent to deposit the compensation amount.



C.M.A.No.2730 of 2021

Aggrieved by the same, the appellants claimants have filed this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that the original claimant was a Railway employee and his pay certificate was marked as Ex.P11, however, P.W.3 – employer of Railway's evidence is in confusion and the employer did not depose the net salary amount the original claimant took home. Hence, this Court may set aside the impugned judgment and remand back the matter to the Tribunal to decide the net income of the original claimant by examining the employer of Railway once again. The learned counsel further submitted that the award amount was already withdrawn by the appellants.

5.The learned counsel appearing for the second respondent Insurance Company raise no serious objection.

6.Heard the learned counsel appearing for the appellants claimants as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.



C.M.A.No.2730 of 2021

7.Considering the submission made by the learned counsel appearing for the appellants, the judgment and decree dated 17.12.2020 passed by the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai, in M.C.O.P.No.2124 of 2012, is set aside and the matter is remitted back to the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai, for fresh adjudication only in respect of the net income of the original claimant by re-examining the employer of the Railway. The award amount already withdrawn by the appellants is subject to the outcome/ result of M.C.O.P.No.2124 of 2012.

8.The civil miscellaneous appeal is allowed. The judgment and decree dated 17.12.2020 passed by the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai, in M.C.O.P.No.2124 of 2012, is set aside. No costs.

08.01.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
(IV Small Causes Court), Chennai.

4/5



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C.M.A.No.2730 of 2021

M.DHANDAPANI,J.
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C.M.A.No.2730 of 2021

08.01.2025