



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 25-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A. No. 2630 of 2024

1. K. Vidhya
2.Minor L. Lokeshwaran
Minor Rep. by his mother and next
friend, 1st Appellant,

3. CHANDRA
4.S.Thiruneelakandan

Appellant(s)

Vs

1. T. Sureshkumar

2.United India Insurance Co. Ltd.,
Motor Third Party Hub,
Silingi Building,
4th Floor, No.134, Greams Road,
Chennai-600 006.

Respondent(s)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 29.09.2023 in M.C.O.P.No.3325 of 2012 on the file of the learned II Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai.



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For Appellant(s): Mr.T.Nalliyappan

For Respondent(s): Ms.C.Harini
for M/s. M.B. Gopalan Associates
for R2

R1 - No Appearance

ORDER

The above Civil Miscellaneous Appeal arises against the Award and Decree dated 29.09.2023 in M.C.O.P.No.3325 of 2012 on the file of the learned II Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai.

2.It is the case of the claimants that the claimants are the wife, son, mother, and father of the deceased, Kalyanasundaram. On 06-12-2011, while the deceased was driving the lorry bearing Reg.No. TN 10 J 9455 in Hanchinal Village, Karnataka, the vehicle came in contact with a live electric wire. The deceased, upon realizing the contact, attempted to switch off the engine and alight from the vehicle, but unfortunately suffered electrocution and died on the spot. The claim petition was filed under Section 166 of the Motor Vehicles Act,

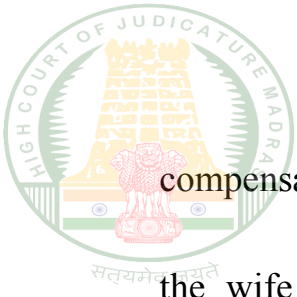


3.The 1st respondent, who is the owner of the vehicle remained *ex parte*.

The 2nd respondent contended that the deceased himself was negligent in handling the live wire and the accident did not arise due to rash or negligent driving of the lorry. Further, the claim is not maintainable under Section 166 as the owner had no fault. The insurance coverage applies only to accidents involving the vehicle directly, not for electrocution outside the lorry.

4.After analysing the oral and documentary evidence on either side, the Tribunal dismissed the claim stating that the accident occurred solely due to the own negligence of the deceased.

5.The learned counsel for the appellant argued that the accident occurred in the course of employment, while the deceased was driving the lorry. The vehicle was operational and contributory to the occurrence and thus,



compensation under Workmen's Compensation Act is warranted. PW1, who is the wife of the deceased and PW2, who is an eyewitness, gave credible testimony regarding the circumstances of the accident. Further, he contended that the monthly income, age, and dependency of the deceased justify the claimed amount.

6.The learned counsel for the respondent/Insurance Company contended that the deceased's own negligent act of handling live wire was the proximate cause. The vehicle did not cause death, and hence no indemnity arises. The Tribunal correctly dismissed the claim under Section 166 of the Act.

7.Upon careful consideration of the pleadings, evidence, and statutory provisions, it is seen that the deceased was driving the lorry in the course of employment when the incident occurred. While alighting from the lorry, immediately after it touched the live wire and the vehicle was operational at the time. Considering the circumstances, it is just and proper to treat the claim



under the Workmen's Compensation Act, rather than Section 166 of M.V. Act.

By examining PW1 and PW2 and marking of Ex.P1 – First Information Report, Ex.P2 - Death Certificate, and Ex.P3 – Postmortem Certificate, they substantiate the claim. Further, the compensation under Workmen's Compensation Act is available to the employees injured or killed during the course of employment, even if contributory negligence exists. Hence, At the time of death, the deceased was aged 39 years. Taking into account the cost of living at that time, the notional income can be fixed to a sum of Rs.8,000/- per month. Further, the Multiplier / Factor is 186.90 as per the Act. Therefore, the loss of dependency to the family would be a sum of Rs. $(Rs.8,000/- \times 186.90 \times 50/100 = Rs.7,47,600/-$. A sum of Rs.5,000/- is granted under the head of funeral expenses. The enhanced compensation would be a sum of Rs. 7,52,600/- with interest @ 12% per annum from the date of filing of the claim petition until realization, as per the Workmen's Compensation Act.

8. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent is directed to deposit Rs.7,52,600/- along with 12% per annum



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interest from the date of filing until payment, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.3325 of 2012 on the file of the learned II Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment, if not deposited earlier. The 1st claimant/wife of the deceased is entitled to a sum of Rs.2,00,000/- towards compensation and the 2nd claimant/minor is entitled to a sum of Rs.3,52,600/- The claimants 3 and 4, who are the mother and father of the deceased, are entitled to a sum of Rs.1,00,000/- each towards compensation. On such deposit, the claimants 1, 3 and 4 are permitted to withdraw the entire award amount with proportionate accrued interest and costs as apportioned by this Court, by making necessary applications.

9. The share of the minor/ 2nd claimant shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minor/2nd claimant shall be paid to the mother of the minor, once in three months, till he



attains majority.

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The claimants are directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimants. No costs.

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mps

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The II Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

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



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T.V.THAMILSELVI J.

mps

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