



C.M.A.No.962 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 28.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.962 of 2025
and C.M.P.No.7604 of 2025

The Manager,
The Reliance General Insurance Co. Ltd.,
H Block, 4th Street,
Door No.12, H 2035,
15th Main Road,
Anna Nagar West,
Chennai – 600 040.

... Appellant

vs.

1.E.Perumal

2.P.Kasturi

3.P.Ramana (Minor)

4.P.Ramya (Minor)

*(3rd and 4th Respondents are Minor Rept., by Mother
and NF 2nd Respondent)*

5.Prasanth

6.Palani

... Respondents



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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 22.11.2023 made in MCOP No.7383 of 2017 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

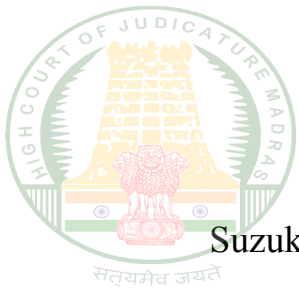
For Appellant : M/s.R.Sree Vidhya

For R1 to R4 : Mr.M.Pachaiyappan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai in M.C.O.P.No.7383 of 2017, dated 22.11.2023.

2. It is the case of the respondents 1 to 4/claimants that son of the claimants 1 and 2 and brother of the claimants 3 and 4 namely P.Rajamani died in a road accident that had occurred on 20.10.2015. It is their case that the deceased was travelling as a pillion rider in Appachi Motorcycle bearing Registration No.TN-25-AU-7491 on the left hand side of the road. When he came near Chinnappa Gounder's house at Aarasur Chetty Kulam, a Maruti



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Suzuki (Swift) Car bearing Registration No.TN-02-AB-4477 belonged to the 5th respondent insured with the appellant-insurance company came in a rash and negligent manner and dashed against the two wheeler. As a result of which, the pillion rider of the two wheeler died. Therefore, a claim petition was filed seeking compensation of Rs.90,00,000/-.

3. The 5th respondent and the appellant herein owner and insurer of the offending vehicle filed counter and opposed the claim petition on the ground that the accident had taken place only due to the negligent driving of the driver of the two wheeler.

4. Before the Tribunal, the 1st respondent/1st claimant was examined as PW.1 and yet another witness was examined as PW.2. On behalf of the claimants, 10 documents were marked as Exs.P1 to P10. On behalf of the 2nd respondent therein, one Sahana was examined as RW.1 and 4 documents were marked as Exs.R1 to R4.

5. The Tribunal based on the evidence available on record, came to the conclusion that the accident had occurred only due to the negligent



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driving of the car insured with the appellant. The compensation payable to the claimants was quantified at Rs.19,24,400/-. Aggrieved by the same, the appellant-insurer has come before this Court.

6. Both the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 1 to 4/claimants have not advanced any arguments on the questions of negligence and liability. Hence, facts necessary to decide those questions are not discussed in this appeal.

7. The learned counsel appearing for the appellant-insurance company would submit that the driver of the car did not possess valid driving licence and hence, the Tribunal committed an error in not ordering pay and recovery. The learned counsel further submits that even though claimants failed to produce any documentary evidence to prove the income of the deceased, the Tribunal fixed notional income at Rs.12,000/- per month, without any basis.

8. The learned counsel appearing for the respondents 1 to 4/claimants would submit that the insurer has not taken any steps to prove that driver of



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the car did not possess valid driving licence. He further submitted that

notional income fixed by the Tribunal is very much on lower side.

9. It is seen from the award passed by the Tribunal, the appellant-insurer has not taken any steps to examine the Official from concerned RTO Office to prove that the driver of the vehicle did not possess valid driving licence at the time of accident. Therefore, the first submission made by the learned counsel appearing for the appellant regarding order for pay and recovery is rejected.

10. In the claim petition, it was stated by the claimants that deceased was a student studying in a Private Institution as a Diesel Mechanic. However, the claimants have not produced any documentary evidence to prove that the deceased was undergoing a technical education or to prove the income. The accident had occurred in the year 2015. Even if there is no proof for avocation or income of the deceased, the Court can easily fix Rs.15,000/- as notional income of the deceased. However, in the case on hand, the deceased was only a student allegedly undergoing some technical course.



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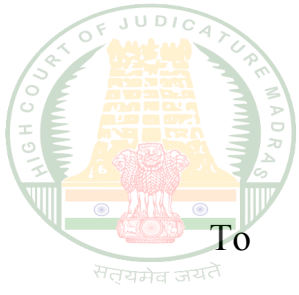
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11. Taking into consideration the entire facts and situation, the Tribunal rightly fixed a sum of Rs.12,000/- as notional income and applied applicable multiplier and future prospects. I do not think the quantum of compensation arrived at by the Tribunal under the head loss of dependency is not reasonable. The amount awarded by the Tribunal under the heads loss of consortium, loss of estate and funeral expenses are in accordance with law laid down by the Apex Court in ***National Insurance Company Limited vs. Pranay Sethi and others*** reported in (2017) 16 SCC 680.

12. Therefore, I do not find anything to interfere with the award passed by the Tribunal and accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

28.03.2025

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



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To

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1.The Motor Accident Claims Tribunal,
III Court of Small Causes, Chennai.

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



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S.SOUNTHAR, J.

dm

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