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CMA No. 2608 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2608 of 2022

AND

CMP NO. 20321 OF 2022

1. M/s.TATA AIG GENERAL
INSURANCE

Company Ltd, 1st Floor, GSN Arcade,
Krishnagiri By-Pass Road, Hosur,
Krishnagiri District

Appellant(s)

Vs

1. INDHUMATHI

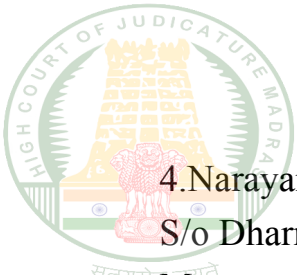
W/o.Dharmalingam, Residing at 5/3,
Murugappan St, Dharmapuri,
Dharmapuri District

2.Dhanalakshmi

D/o Dharmalingam, Res at 5/3,
Murugappan St, Dharmapuri,
Dharmapuri Dt

3.Subathra

D/o Dharmalingam, Res at 5/3,
Murugappan St, Dharmapuri,
Dharmapuri Dt



4.Narayanan

S/o Dharmalingam, Res at 5/3,
Murugappan St, Dharmapuri,
Dharmapuri Dt

5.Chinnasamy

S/o Kandasamy, 4/17, Sesampatty,
Nallampalli Tk, Dharmapuri Dt

Respondent(s)

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PRAYER

To set aside the award dated 8th day of August 2022 made in MCOP.No.443 of 2020 on the file of Motor Accidents Claims Tribunal,(Special District Court), Dharmapuri and be pleased to dismiss the above claim and thus render justice.

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For Appellant(s): Mr.K. Vinod

For Respondent(s): Mr.S.Sathiaseelan For Rr1to4
R-5 - No Appearance

JUDGEMENT

This appeal has been filed to set aside the award dated 8th day of August 2022 made in MCOP.No.443 of 2020 on the file of Motor Accidents Claims Tribunal,(Special District Court), Dharmapuri.

2. The appellant Insurance company filed this appeal challenging the award passed by the tribunal. On 26.01.2020 at about 11.30 a.m., while the



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deceased Dharmalingam was waiting on the eastern side of the Dharmapurit to Salem main road to cross the road towards west to go to Ranga Deparmental Store, Dharmapuri, the respondent vehicle bearing registration No. TN 29 BK 6617 was ridden in a rash and negligent manner dashed against the deceased, due to which, the deceased sustained multiple injuries and taken to the hospital where he died. Thereafter, the claimants filed the appeal before the tribunal claiming compensation. The second respondent contested the case by filing counter. After considering the oral and documentary evidence, the tribunal awarded a compensation. Challenging the award passed by the tribunal the Insurance company filed this appeal.

3. The learned counsel for the appellant submits that at the time of the accident the deceased has received pension Rs.23,300/- but the tribunal has awarded Rs.25,000/- as income of the deceased without any records hence he prays to reduce the income of the deceased from Rs.25,000/- to Rs.23,300/-. Further, he submits that at the time of the accident, the deceased was aged about 60 years and his daughters were got married so they were not dependent on the deceased but the tribunal has deducted $\frac{1}{4}$ instead of $\frac{1}{2}$. Hence, he prays to



modify the award passed by the tribunal.

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4. The learned counsel for the respondent submits that in the month of January 2020 deceased received Rs.26,300/- to that effect the claimants marked bank account statement of deceased so the tribunal has rightly fixed the income of the deceased as Rs.25,000/- and also he pointed out that at earlier month the deceased has continuously received Rs.26,310/-. Hence, he prays to dismiss this appeal.

5. A perusal of the records, it reveal that in the month of January, 2020, the deceased has received Rs.26,310/- as pension and in the month of July the deceased has received Rs.25,000/-. By considering the above variations, the tribunal has rightly fixed the income of the deceased which needs no interference.

6. In respect of deduction made by the tribunal under the head of personal expenses, it is submitted that the deceased has died leaving behind wife, two daughters and son but his daughters were married and aged about 40 years at the time of the accident so they were not dependent on the deceased, therefore $\frac{1}{4}$ deducted under the head of personal expenses is excessive and to support his



case the appellant relied the judgement of the Court reported in (2020) 11 SCC

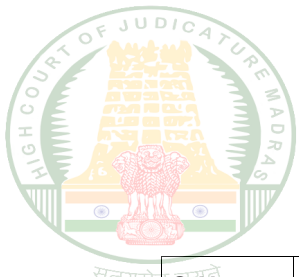
356 in the case of National Insurance Company Ltd, Vs. Birender and others.

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14.....it would be the bounden duty of the tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only....

7. On the other side, the learned counsel for the claimant submits that though his daughters are major, they are depend on the deceased. Therefore, $\frac{1}{4}$ deduction as such is maintainable to that effect he relied the judgement of the Apex Court reported in the case of New India Assurance Co. Ltd Vs. Vinish Jain and others reported in the case of 2018 ACJ 1004:

8. Considering the facts of the case, the deceased died leaving behind his wife, two daughters and son and also the fact that his daughters were major at the time of the accident. Hence, $\frac{1}{3}$ deduction is reasonable under the head of personal expenses. Accordingly, the claimant is entitled to Rs. 10,00,000/- $(25,000 \times 12 \times 5 - \frac{1}{3})$ under the head of loss of dependency. In respect of other heads, the order passed by the tribunal remain unchanged.



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S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of income/dependency	Rs.1,15,625/-	Rs.10,00,000/-
2.	Loss of estate	Rs.16,500/-	Rs.16,500/-
3.	Loss of consortium	Rs.1,76,000/-	Rs.1,76,000/-
4.	Funeral expenses	Rs.16,500/-	Rs.16,500/-
5.	Transportation charges	Rs.6,000/-	Rs.6,000/-
6.	Medical expenses	Rs.3,00,000/-	Rs.3,00,000/-
	Total	Rs.16,30,625/-	Rs.15,15,000/-

9. In view of the discussions made earlier, the compensation awarded by the Tribunal is reduced to **Rs.15,15,000/-**. The appellant is directed to deposit the said amount together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of MCOP.No.443 of 2020 on the file of Motor Accidents Claims Tribunal,(Special District Court), Dharmapuri, within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the **claimants** are permitted to withdraw the award amount by making formal application before the Tribunal.



10. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Motor Accidents Claims Tribunal, (Special District Court), Dharmapuri

2. The section officer, V.R Section, High Court, Madras.



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T.V.THAMILSELVI J.

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