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CMA.No.343 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :07.02.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CMA No.343 of 2025**

T.R.Ramaraj(Died)

1. R.Kamatchi

2.T.R.Narayanan

3.T.R.Suganya

... Appellants

**Vs.**

1. V.Muniammal

2. The Manager

HDFC ERGO General Insurance Co.Limited

Chennai.

... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, pleaded to enhance the amount awarded in MCOP.No.588 of 2014 dated 21.03.2019 on the file of Motor Accidents Claims Tribunal, (District Judge-District Court-II, Kanchipuram.

For appellant : M/s.K.Varadha Kamaraj

For Respondent 2 : Mr.S.Arun Kumar

For respondent 1 : Service awaited

**JUDGMENT**



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The appeal has been filed by the claimants not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal.

2. It is the case of the appellants/claimants that on 11.10.2014 when the deceased (son of the 1<sup>st</sup> appellant and brother of the appellants 2 and 3) was proceeding on his motorcycle bearing registration No.TN 21 AJ 0700, the tipper lorry bearing registration No.TN 20 AK 5140 owned by the first respondent insured with the second respondent came in the opposite direction in a rash and negligent manner and dashed against the vehicle of the deceased. As a result of the road accident, the deceased sustained head injuries and died. The 1<sup>st</sup> appellant and one T.R.Ramaraj are the parents of the deceased and appellants 2 and 3 are the siblings of the deceased filed a claim petition seeking compensation of Rs.75,00,000/-.



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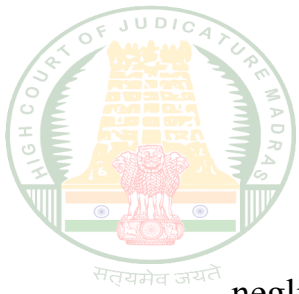
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3. The first respondent remained *exparte* and the claim petition was opposed by the second respondent by filing a counter affidavit. In the counter, it was clearly averred by the second respondent that the deceased failed to wear the helmet at the time of accident and due to his contributory negligence, the fatal accident had occurred.

4. In order to prove the claim, three witnesses were examined on behalf of the claimants as PW1 to PW3. Twelve documents were marked as Exhibit P1 to Exhibit P12. On behalf of the respondents, the pay slip of the deceased was marked as Exhibit R1.

5. The Tribunal, based on the evidence available on record, came to the conclusion that the claimants were entitled to a sum of Rs. 40,16,458/-. Not satisfied with the quantum of compensation, the claimants have come before this court by way of this appeal.

6. The learned counsel for the appellants submitted that the Tribunal committed a serious error in fixing 10% contributory



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negligence on the part of the deceased. The learned counsel further submitted that the evidence of P.W.'s and the FIR marked as Exhibit P1 clearly proved that the accident had occurred due to the rash and negligent driving of the first respondent's lorry and therefore, the Tribunal ought not have fixed 10% contributory negligence on the part of the deceased.

7. The learned counsel for the second respondent submitted that the deceased failed to wear a helmet and therefore, the Tribunal ought to have fixed a contributory negligence at 10%. He also relied on Section 129 of Motor Vehicles Act to sustain the contributory negligence fixed by the Tribunal.

8. Section 129 of Motor Vehicles Act imposes obligation on the rider of two wheelers to wear helmet. In the case on hand, the deceased did not wear a helmet at the time of accident. He sustained head injury and as a result of which he died. Had he worn a helmet at the relevant point of time, probably his life would have been saved. Therefore, the Tribunal is justified in fixing contributory negligence on the deceased



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for his failure to wear a helmet. I do not find any error in the said findings of the Tribunal regarding the contributory negligence. Accordingly, the appellants have not made out anything to interfere with the findings of the Tribunal and hence, the Civil Miscellaneous Appeal is dismissed. No costs.

**07.02.2025**

Index:Yes/No  
Internet:Yes/No  
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**To**

1. Motor Accident Claims Tribunal,  
The District Judge, District Court-II, Kanchipuram.
2. The Section Officer,  
VR Section,  
High Court, Madras.



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**S.SOUNTHAR, J.**

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