



C.M.A.No.1241 of 2020

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.1241 of 2020

and

C.M.P.Nos.8139 of 2020

M/s.Reliance General Insurance Company Limited,
1st Floor, “Geejay Arcade”, 141/71,
Thiruvencatasamy Road (W), R.S.Puram,
Coimbatore – 641 012.

... Appellant

Vs.

1. Sudha
2. Minor Kamalesh(2 years)
Son of the deceased Satish
Rep. by his Mother Sudha as the Guardian
3. Anand Kumar
4. Lakshmi
5. Karuppasamy

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 21.08.2017 made in MCOP.No.414 of 2012 on the file of Motor Accident Claims Tribunal (Subordinate Judge Court), Sathyamangalam.

For Appellant : Mr.K.Moorthy

For R1 and R2 : Mr.R.Nallappan

For R3 to R5 : No Appearance



C.M.A.No.1241 of 2020

WEB COPY

JUDGMENT

The above appeal is filed by the appellant/insurance company seeking to set aside the Judgment and Decree dated 21.08.2017 passed in MCOP.No.414 of 2012 by the Motor Accident Claims Tribunal (Subordinate Judge Court), Sathyamangalam.

2. It is the case of the appellant that, on 01.07.2012 at about 15:00, when the deceased Sathish was riding his two wheeler bearing Regn.No.TN 37 AQ 1786, at that time a lorry bearing Regn.No.TN 52 B 8797 insured with the appellant / insurance company driven by the third respondent came in a rash and negligent manner and dashed the vehicle in which the deceased was riding, due to which, the deceased sustained grievous injuries and succumbed to death. Therefore, the claimants / respondents 1 and 2 have filed a claim petition claiming a sum of Rs.25,00,000/- for the death of the deceased.

3. Before the Tribunal, the claimants have examined P.W.1 to P.W.3 and marked Exhibits P.1 to Ex.P.12. On the side of the



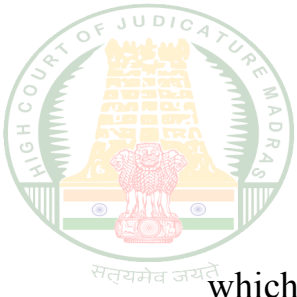
C.M.A.No.1241 of 2020

WEB COPY

respondents, they have neither examined any witness nor marked any document. After adjudication, the Tribunal awarded a sum of Rs.16,99,000/- as compensation to the respondents 1 and 2, who are the wife and daughter of the deceased as well as the respondent 4 and 5 who are the parents of the deceased. Challenging the same, the appellant / insurer of the lorry has preferred the present appeal.

4. The learned counsel appearing for the appellant / insurance company submitted that, due to the rash and negligent driving of the driver of the deceased, he sustained grievous injuries all over his body and succumbed to death. He further submits that though there was no proof of income, the Tribunal has fixed the notional income of the deceased at Rs.12,000/- which is highly excessive. The other heads awarded by the Tribunal are also on the higher side and the same requires interference.

5. Per contra, the learned counsel appearing on behalf of the respondents 1 and 2 / claimants contended that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation,



C.M.A.No.1241 of 2020

WEB COPY

which does not require any interference. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellant and the learned counsel for the respondents 1 and 2 and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. Admittedly the accident happened on 01.07.2012. In order to prove the manner in which the accident had happened, the claimants have examined an independent eye witness as P.W.2. who categorically deposed before the Tribunal that the accident had occurred solely due to the driver -cum-owner of the lorry / third respondent. However, in order to disprove the same, no independent eye witness has been examined on behalf of the appellant / insurer of the lorry.

8. On the aspect of negligence, based on the oral testimony of P.W.2 (P.Mahalakshmi) eye witness, coupled with the charge sheet laid



C.M.A.No.1241 of 2020

WEB COPY

against the driver of the lorry and other connected exhibits marked on the side of the claimants, concluded that the accident occurred only due to the rash and negligent driving of the driver of the lorry by fixing the entire liability as against the appellant / insurance company, which, in the opinion of this Court, is based on sound reasoning and hence, does not warrant interference.

9. However, since, giving under one head and reducing under the other head would result in the amount to be awarded to be the same and no useful purpose would be served in modifying the compensation under the heads, while the compensation amount would remain the same, which would be nothing but an exercise in futility, therefore, this Court is not embarking upon the said modification, but suffice to confirm the compensation awarded by the Tribunal.

10. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.414 of 2012 dated 21.08.2017 and the appellant / insurance company is directed to deposit the compensation of **Rs.16,99,000/-** awarded by the tribunal to



C.M.A.No.1241 of 2020

WEB COPY

the credit of MCOP.No.414 of 2012 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to transfer the said amount to the respondents 1, 2, 4 and 5 directly to their bank account through RTGS within a period of two (2) weeks thereafter. The compensation shall be apportioned among the respondents 1, 2, 4 and 5 as per the order of the Tribunal. There shall be no order as to costs in this appeal. Consequently, connected miscellaneous petition is closed.

20.01.2025

Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
rap



C.M.A.No.1241 of 2020

WEB COPY

- To
- 1.Motor Accident Claims Tribunal (Subordinate Judge Court),
Sathyamangalam.
 - 2.The Section Officer, V.R.Section, High Court, Madras.

M.DHANDAPANI, J.



WEB COPY



C.M.A.No.1241 of 2020

rap

C.M.A.No.1241 of 2020

20.01.2025