

C.M.A.(MD)No.198 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 08.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.198 of 2020

The Oriental Insurance Company Limited,
Rep. By its Branch Manager,
Gopalrav Library Building,
Town Hall Road,
Kumbakonam.

... Appellant

Vs.

1. Chandra Sornavalli

2. Chandru

3. Jai Vignesh

(3rd respondent is declared as Major and the guardianship of his mother R1-Chandra Sornavalli is discharge vide Court order dated 29.11.2023 made in CMP(MD)No. 12305 of 2023 in CMA(MD)No.198 of 2020)

4. Minor.Surya Narayanan

(Minor 4th respondent is represented by his mother and Guardian of 1st respondent Chandra Sornavalli)

5. Thavlatbegam

... Respondents



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the Decree and Judgment made in M.C.O.P.No. 42 of 2019 dated 04.12.2019 on the file of the Motor Accident Claims Tribunal cum Special District Judge, Thanjavur.

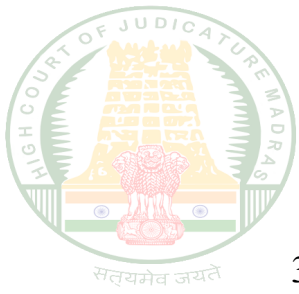
For Appellant : Mr.E.Chandrasekaran

For R1 to R4 : M.P.Senthil

JUDGMENT

The Civil Miscellaneous Appeal has been filed challenging the against the decree and judgment made in M.C.O.P.No.42 of 2019 dated 04.12.2019 on the file of the Motor Accident Claims Tribunal cum Special District Judge, Thanjavur.

2. For the sake of convenience, the parties herein are referred to, as per their rank before the Tribunal.



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3. The brief facts in a nutshell are as follows:

(i) The claimants are the legal heirs of the deceased. The first respondent is the owner of the vehicle that collided with the vehicle plied by the deceased and the second respondent is the Insurance Company with which the vehicle involved is insured.

(ii) On 15.05.2018 at about 01.30 p.m. the deceased, Kanthaiya, was riding a two-wheeler bearing Registration No. TN-68-S-0909, owned by his owner, Kirubakar, along the Thanjavur-Kumbakonam Road. While nearing Papanasam Cooperative Bank at Iyampettai and proceeding in the east-west direction, another two-wheeler bearing Registration No.TN-68-W-1374 owned by the first respondent, came from the opposite direction and dashed against the two-wheeler driven by the deceased. As a result of which the deceased sustained grievous injuries and was admitted in the hospital, where he succumbed to the injuries on 28.08.2018, after undergoing treatment for nearly three months. Seeking compensation for his death, the legal heirs of the deceased has laid M.C.O.P.

(iii) The learned Tribunal examined two witnesses on the side of the petitioner and marked Ex.P.1 to Ex.P.14. No witnesses were examined on the side of the respondents and marked Ex.R1 to Ex.R10. The original salary certificate of the deceased was marked as Ex.C.1 through the



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employer of the deceased.

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(iv) On the basis of the arguments, the evidence deposited and the documents marked, though the claimants had laid the M.C.O.P., seeking compensation of Rs.30,00,000/-, the Tribunal has awarded a sum of Rs.18,81,943/- as compensation. Challenging the same, the Insurance Company has preferred the present appeal before this Court.

4. The learned Counsel appearing for the appellant submitted that the accident occurred due to a direct collision between two-wheelers coming from opposite directions. He contended that the deceased sustained grievous head injury because of the fact that he failed to wear a helmet at the time of the accident. Both the two-wheelers involved were equally responsible for the accident, and hence, the Tribunal ought to have fastened contributory liability on the riders of the respective vehicles involved in the accident. He further submitted that the monthly income fixed by the Tribunal is baseless and without any substance. Although the deceased was claimed to be a laboratory Manager, there is no reason for the Trial Court to proceed to finalize the award by fixing the monthly income of the deceased as Rs.15,000/-. He also insisted that the deceased did not possess a driving license on the date of the accident and therefore,



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pressed for allowing the appeal.

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5. The learned Counsel appearing for the claimants submitted that the arguments of the appellant are not sustainable and therefore, pressed for dismissal of the appeal.

6. Heard the learned Counsel for the appellant and the learned Counsel for the respondent and carefully perused the material available on record.

7. The First Information Report was marked as Ex.P1 and the same was registered at the instance of the employer of the deceased, namely, Kirubakar. The contents of the FIR reveal that the accident occurred due to the rash and negligent driving of the two-wheeler which collided with the two-wheeler driven by the deceased. The rider of the said two-wheeler possessed a valid driving license, which was marked as Ex.P.3 and Ex.R.3. Though the learned counsel for the appellant categorically submitted that the deceased did not possess a valid driving license at the time of the accident, such a defence was not raised before the Tribunal. Further, he contended that the deceased was not wearing a helmet at the time of the



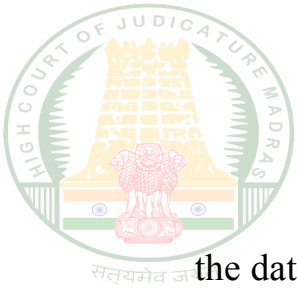
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accident was also not duly proved by the appellant before the Tribunal.

None of the documents marked before the Tribunal would prove the fact that he did not wear a helmet at the time of accident.

8. As far as the monthly income is concerned, the deceased was employed as a lab technician in the laboratory owned by Kirubakar, the defacto complainant in the FIR dated 16.05.2018. The salary certificate issued by the employer was marked as Ex.X.1, wherein it is certified that the deceased was earning Rs.20,000/- per month. Despite marking the same, the learned Tribunal had proceeded to fix the monthly income as only Rs.15,000/-, reducing Rs.5000/- from the amount mentioned in Ex.X1. Hence, I do not find any infirmity in the findings of the Tribunal. Accordingly, this Civil Miscellaneous Appeal stands dismissed.

9. The appellant is directed to deposit the compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.42 of 2019 before the Motor Accident Claims Tribunal cum Special District Judge, Thanjavur, within a period of four weeks (4) from



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the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimants are permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs.

08.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

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To

1. The Special District Judge /MACT,
Thanjavur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

jbr

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