



C.M.A.MD) No.801 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

C.M.A(MD)No.801 of 2024

and

C.M.P(MD)No.8799 of 2024

The Manager,
Reliance General Insurance Company Ltd.,
Plot No.HIG-55, Sri Meenakshi Plaza,
I Floor, 80 Feet Road,
Anna Nagar,
Madurai Town-625 020

... Appellant/2nd
Respondent

-Vs-

1.Sangeetha
2.Minor Sri Saga
3.Minor Sri Krishikka

... Respondents 1 to 3/
Petitioners 1 -3

(Minor Respondents 2 and 3
represented by their Mother,
Natural Guardian R1)

4.Ammasi
5.Eswari

...Respondents 4& 5/
Petitioners 4 & 5



6.Malarvalli



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...6th Respondent/1st
Respondent

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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 03.02.2024 passed in MCOP No.345 of 2020 by the Motor Accident Claims Tribunal, (Principal District Judge), Dindigul.

For Appellant	: Mr.K.R.Sivashankari
For R1 to R5	: Mr.A.Saravanan
For R6	: No appearance

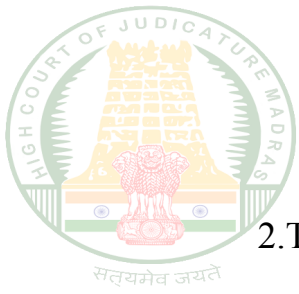
JUDGMENT

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

One Mr.Karthikeyan, aged about 27 while proceeding in his two wheeler bearing Registration No.TN-64-Q-8046 was hit by a tipper lorry bearing Registration No.TN-59-AH-8781, wherein he died due to injuries sustained. His wife, three children and parents preferred Motor Accident Claim petition before the Motor Accident Claims Tribunal, Dindigul, claiming a sum of Rs.70,00,000/- as compensation.



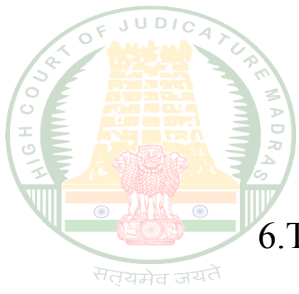
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2.The said claim was opposed by the Insurance Company on the ground that the claim is excessive and that apart, the accident occurred due to the negligence of the deceased Karthikeyan.

3.The Tribunal, after considering the evidence, held that the accident has occurred due to the negligence of the driver of the Tipper Lorry.

4.The deceased was gainly employed as a salary person earning a sum of Rs.21,879/- per month, the dependents are entitled for compensation apply multiplier 17. Regarding the negligence, taking into account the Motor Vehicle Inspector's Report and the evidence of P.W.2, who witnessed the accident and held that the accident has occurred only due to the negligence of the tipper lorry driver. Accordingly, the Insurance Company, which has indemnified the owner of the lorry, being directed to pay a sum of Rs.47,89,560/- with 7.5% interest from the date of petition till realisation.

5.The compensation amount now been ordered to be disbursed proportionately among the wife, children and parents of the deceased. Being aggrieved, the present appeal is filed by the Insurance Company.

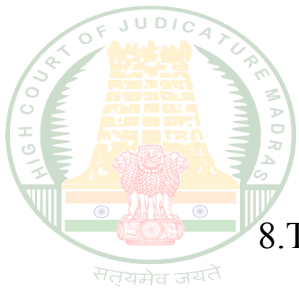


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6.The learned counsel appearing for the appellant submitted that the evidence of P.W.2 is not reliable and he cannot be construed as an eye witness.

Further, it is contended that the Motor Inspector's Report, marked as Ex.R.1, would show that the two wheeler of the deceased been damaged on the rear side, which would lead to inference that the deceased has turned his two wheeler crossing the lane suddenly and got in the accident due to his negligence. Further the learned counsel would submit that the salary of the deceased ought to have been taken as 20,379/- and not 21,879 per month.

7.The learned counsel appearing for the respondent/claimant would submit that P.W.2 evidence is cogent and natural his testimony is not match through cross-examination no suggestion put to him regarding the alleged negligence of the deceased. The damage found in the two wheeler of the deceased is extensive and the right side headlight, handlebar of the vehicle. Therefore, the plea of the appellant's counsel to infer the negligence, based on the damage to the vehicle is unsustainable. Regarding the salary, the learned counsel would submit that the gross salary of the deceased proved to be Rs.12,879/- which includes Rs.1,500/- towards PF contribution.



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8.The trial Court has rightly considered the factum of the Hon'ble Supreme Court that the contribution towards Social Welfare Scheme cannot be deducted from the salary, while arriving at compensation.

9.This Court, after considering the rival submission, finds that the grounds raised by the appellant are untenable and not supported by the evidence, whereas the Tribunal, after due consideration of the evidence placed before it, has rightly granted the compensation. Therefore, we find no reason to interfere with the award of the Tribunal. Hence, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

[G.J., J.] & [R.P., J.]

14.03.2025

NCC : Yes / No
Index : Yes / No

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DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

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To

- 1.The Motor Accident Claims Tribunal,
(Principal District Judge),
Dindigul.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

C.M.A(MD)No.801 of 2024

and

C.M.P(MD)No.8799 of 2024

14.03.2025