



C.M.A.(MD)No.1283 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **25.09.2025**

CORAM :

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

and

THE HONOURABLE MRS.JUSTICE **L.VICTORIA GOWRI**

C.M.A(MD)No. 1283 of 2023
and C.M.P(MD)No.17191 of 2023

Reliance General Insurance Company
184/9B/7, V.V.D. Main Road,
Near State Bank of India, Tirunelveli,
Tirunelveli District

Through its Branch Manager ...Appellant/3rd Respondent

Vs.

1.Revathi
2.Minor Amaran
3.Minor Arasu
(Minors are represented by
their Natural guardian and mother Revathi)

...Respondents 1 to 3

4.Lakshmi
5.Malarmannan

6.M/s.JVP Associates,
D.No.5/919, SPIC Industrial Estates,
SPIC Nagar, Muthaiyapuram, Thoothukudi,
Thoothukudi District – 628 005.

7.Anablagan ..Respondents 4 to 7

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.55 of 2021 on the file of the Motor Accident Claims Tribunal Judge (Subordinate Judge) Aruppukottai dated 07.07.2023.



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C.M.A.(MD)No.1283 of 2023

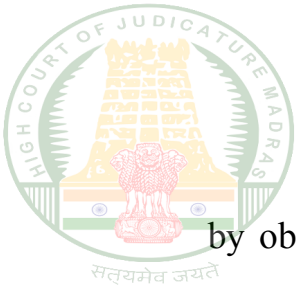
For Appellant : Mrs.K.R.Shivashankari
For R1 to R4 : Mr.I.Suthakaran
(R2 & R3 are minors rep. By R1)
R5 to R7 : No appearance

JUDGMENT

The Insurance Company has filed this Civil Miscellaneous Appeal against the judgment and decree dated 07.07.2023 passed in M.C.O.P.No. 55 of 2021 on the file of the Motor Accident Claims Tribunal Judge (Subordinate Judge) Aruppukottai.

2. The respondents 1 to 4 herein filed a claim petition stating that on 13.02.2021, while the deceased was travelling in a two-wheeler bearing registration No.TN-63-AA-3474, a Tipper Lorry bearing registration No. 69-BA-1638 insured with the appellant came in a rash and negligent manner and dashed behind the two wheeler and the Tipper Lorry went down on the deceased, as a result of which, he died on the spot. The respondents 1 to 4 have filed the claim petition against the driver, owner of the offending vehicle and the Insurance Company.

3. The appellant Insurance Company filed a counter stating that the accident took place only due to the negligent riding of the two wheeler rider and the driver of the Tipper Lorry drove the vehicle in a slow speed



C.M.A.(MD)No.1283 of 2023

by observing all traffic rules and that the appellant is not liable to pay compensation and in any case, the compensation claimed was excessive.

4. On the side of the claimants, the first claimant examined herself as P.W.1 and the brother of the deceased as P.W.2 besides marking Ex.P.1 to Ex.P.12. The appellant neither examined any witness nor marked any document.

5. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a total compensation of Rs.30,12,400/-.

6. The learned counsel for the appellant submitted that the Tribunal ought to have apportioned negligence between the deceased and the driver of the appellant and the Tribunal wrongly fixed the entire negligence against the driver of the Tipper Lorry, which was insured with the appellant. The learned counsel for the appellant would submit that the deceased did not wear helmet at the time of accident which would lead fatal head injuries and that the compensation awarded under other heads is also excessive and prayed for reduction of compensation.



C.M.A.(MD)No.1283 of 2023

7. The learned counsel for the respondents 1 to 4/claimants per contra submitted that the award of compensation is just and reasonable and the claimants are entitled to the compensation awarded by the Tribunal and hence, prayed for dismissal of the appeal.

8. Heard both sides and perused the records.

9. The questions involved in the instant appeal are whether the quantum of compensation awarded by the Tribunal is just and reasonable and whether the negligence fixed by the Tribunal is right.

10. As regards negligence, on the side of the claimants, P.W.2 was examined as eye witness and he has clearly spoken about the manner of the accident. It is proved that the accident occurred due to the rash and negligent driving of the driver of the Tipper Lorry and therefore, the contention raised by the learned counsel for the appellant is not acceptable. This Court is not inclined to interfere with the finding of the Tribunal regarding negligence.



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11. As regards quantum, the learned counsel for the appellant would submit that in paragraph No.5 of the counter, they have taken a specific stand that the deceased did not wear helmet at the time of the accident and if the deceased was wearing helmet, the accident could have been avoided. When the appellant has taken a specific plea that the deceased did not wear helmet at the time of accident, the claimants ought to have proved that the deceased was wearing helmet at the time of accident. But the claimants have not proved that the deceased was wearing helmet at the time of the accident. Therefore, this Court is inclined to deduct 5% of the award amount. In all other aspects, the award of the Tribunal shall stand unaltered.

12. The Tribunal awarded Rs.30,12,400/- and after deducting 5% (Rs.1,50,620), the total award amount would come to Rs.28,61,780/-. The appellant Insurance Company shall deposit the award amount of Rs.28,61,780/- with interest at the rate of 7.5% from the date of filing the petition till the date of deposit, after deducting the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 to



C.M.A.(MD)No.1283 of 2023

4/claimants are permitted to withdraw the amount as apportioned by the Tribunal on filing a suitable application before the Tribunal.

13. In fine, this appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(P.V., J) (L.V.G.,J.)
25.09.2025

Index : Yes / No
Neutral Citation : Yes / No
CM

To
1.Motor Accident Claims Tribunal Judge
(Subordinate Judge) Aruppukottai.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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AND
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Judgment made in
C.M.A(MD)No. 1283 of 2023
and C.M.P(MD)No.17191 of 2023

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