



C.M.A(MD)No.142 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 24.07.2025

Pronounced on : 25.09.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A.(MD)No.142 of 2020
and
C.M.P(MD)No.2464 of 2020**

The Branch Manager,
The National Insurance Co. Ltd.,
First Floor, No.333/1 Chekkalai Road,
Near Five Lamp,
Karaikudi. ... Appellant/ 2nd Respondent

Vs.

1.T.Meena
2.Minor Hariharan
3.Minor T.Haritharini ...Respondents 1 to 3/ Petitioners
(Minor respondents 2 and 3 are represented
by their mother and guardian 1st respondent.)
4.Revathi ...4th Respondents / 1st Respondent



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5. The Manager

Reliance General Insurance Company Ltd.,

Thillai Nagar, BLA Kanaga Towers,

2nd Cross Street, Trichy.

...5th Respondents / 3rd Respondent

(impleaded as 3rd respondent as per order

passed in I.A.No.542 of 2017 dated 02.02.2018)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 06.08.2018 made in M.C.O.P.No.62 of 2014 on the file of the Subordinate Court, Motor Accident Claims Tribunal, Devakottai and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.Vivek

for Mr.C.Jeyaprakash – for R1 to R3

Mr.V.Sakthivel – for R5

No Appearance – for R4

JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

The appellant/2nd respondent Insurance company has filed this Civil Miscellaneous Appeal against the fair order and decretal order dated 06.08.2018 passed in M.C.O.P.No.62 of 2014 by the learned



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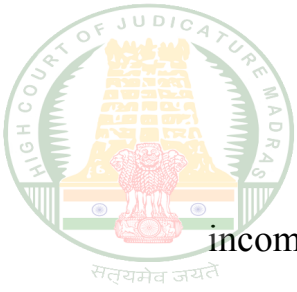
Subordinate Judge, Motor Accident Claims Tribunal, Devakottai.

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2. Brief facts of the petition filed by the claimants before the Tribunal are as follows:

(i) On 25.09.2012 at about 1.30 p.m., the deceased Thiagarajan was riding his motorcycle bearing Registration No.TN 63 AA 7792 near Kottai Kaliamman Temple, Kundrakudi on the extreme left side of the road. At that time, the 1st respondent's car bearing Registration No.TN-63-U-3737 which was driven by its driver in a rash and negligent manner, came on the opposite direction, collided with the motorcycle, causing the accident in which the deceased Thiagarajan had sustained injuries. He was taken to the hospital for treatment but he succumbed to injuries.

(ii) The deceased Thiagarajan was working as a Mechanical Engineer and Supervisor in Jenmon International PTE Ltd. in Singapore and was earning a monthly salary of SGD 2500 (Rs.1,00,000/-). Thereafter, he secured a fresh job in M/s.Stellar Ship Management Service PTE Ltd. as a PUMB Supervisor with a monthly salary of 2500 Dollars. However, before he could join the new employment, he met with an accident and died. The claimants were entirely dependent on the



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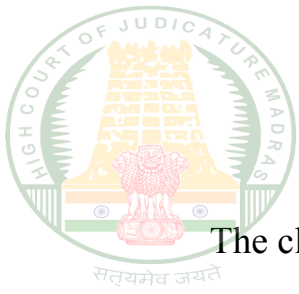
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income of the deceased Thiagarajan for their livelihood. Due to the untimely accident, the claimants have been subjected to loss and hardship, and they have also suffered the loss of his financial support and contribution to the family.

(iii) The deceased Thiagarajan was 39 years old at the time of the accident. A case was registered by Kunrakudi Police Station in Crime No.208/2013 against the driver of the first respondent vehicle under Section 304(A) IPC. The claimants have initially claimed a sum of Rs.2.30,05,000/- as compensation but restricted the same to Rs.50,00,000/-. The 1st respondent is the owner of the vehicle bearing Registration No.TN 63 U 3737 involved in the accident and is vicariously liable for the act of his servant, viz., his driver. Since the vehicle was insured with the 2nd respondent's insurance company, the second respondent is also jointly liable to pay the claim amount. Hence, the respondents 1 and 2 are jointly and severally liable to pay the compensation amount to the claimants.

3. Brief averments contained in the counter filed by the second respondent are as follows :

(a) The respondent denied all the allegations in the petition.



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The claimants have to prove that they are the legal heirs of the deceased.

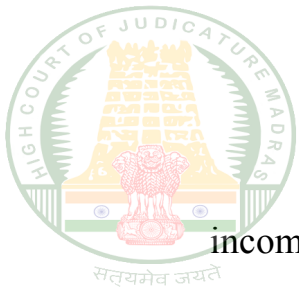
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(b) The averments about age, occupation, and income of the deceased are specifically denied as false. The accident occurred only due to the rash and negligent riding of his two-wheeler by the deceased and not by the 1st respondent's driver and hence, the claim petition is liable to be dismissed with costs.

(c) The claimants must prove through documents that the deceased had possessed a valid driving license at the time of the accident. The owner of the vehicle viz., the first respondent has not reported the accident and has not submitted any vehicle records for verification. The respondent is not at all liable to pay any compensation to the claimants. It is incorrect to state that the driver of the car belonging to the 1st respondent drove the car at a high speed and caused the accident. The claimants have hypothetically made calculations with the intention of getting excessive compensation. The relief sought by the claimants is not admissible. Hence, the petition is liable to be dismissed.

4. Brief averments contained in the counter filed by the third respondent are as follows :

(i) The respondent denied the allegations as to the age and



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income of the deceased, nature and mode of the accident and the claim of compensation as unreasonable, imaginary and arbitrary.

(ii) The claim petition filed by the claimants is totally false and vexatious. At the time of the accident, the deceased was riding the Motorcycle without following the traffic rules and he was driving the Motorcycle in a rash and negligent manner and caused the accident. The above-mentioned accident occurred due to the negligence of the deceased and not due to the negligent act of the driver of the car bearing Registration No.TN 63-U-3737. At the time of the accident, the above-mentioned car was insured with 2nd respondent insurance company. There is no policy contract between the 1st and 3rd respondents. So, the 3rd respondent is not liable to compensate the claimants. The amount of compensation claimed by the claimants is highly exorbitant and without any basis. Hence, the petition is liable to be dismissed.

5. During the trial, on the side of the claimants, PW1 and PW2 were examined and Ex.P1 to Ex.P13 were marked. On the side of the respondents, RW1 and R.W.2 were examined and Ex.R1 and Ex.R2 were marked.



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6. After hearing the parties, the Tribunal allowed the petition

and awarded a sum of Rs.55,10,000/- as compensation. The learned Judge directed the appellant/2nd respondent-Insurance Company to pay the entire award amount within a period of two weeks.

7. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the Insurance Company, which is the 2nd respondent before the Tribunal against the aspects of negligence and quantum on the following among other grounds :

(i) That the trial Court ought to have found that the rough sketch marked as Ex.P.5 would go to show that the accident did not take place due to the sole negligence on the part of the driver of the 1st respondent but the deceased had contributed to the accident by his own negligence.

(ii) That the findings of the Tribunal relating to negligence are so crisp that it has lost sight of the material available on record.

(iii) That the Tribunal ought to have found that there must be evidence to show that the deceased was offered employment by another company in the same foreign land and that the Tribunal ought not to have found that the deceased would have earned as much as the same amount



had he not died in the accident.

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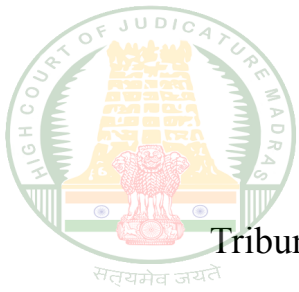
(iv) That the quantum of compensation awarded by the Tribunal is highly excessive and arbitrary and the Tribunal has not chosen to appreciate the materials in proper perspective.

(v) That the Tribunal has not chosen to appreciate what is called "S" pass issued by a foreign country on account of the previous employment being cancelled much before the accident and there is no convincing proof available that the deceased was employed by another company or that he was offered employment and that the offer has been accepted by the deceased.

(vi) That the fixation of Rs 45,000/- as notional monthly income without proof of fresh employment or preparation to go abroad has resulted in the granting of a huge amount of compensation under the head of future loss of income and the same is liable to be reduced.

By raising the above grounds, the appellant prayed to allow the Civil Miscellaneous Appeal and set aside the judgment of the Tribunal.

8. The learned counsel appearing for the respondents 1 to 3/ claimants during his argument fairly admitted that they have not filed any cross-appeal to enhance the compensation. He further argued that the



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Tribunal, after considering the entire records and evidence, awarded a sum of Rs.55,10,000/- which is not highly excessive or arbitrary and seriously objected to the Civil Miscellaneous Appeal by stating that there are no sustainable grounds in the present Appeal, and the same is liable to be dismissed.

9. Heard the learned counsel on either side and perused the materials available on record.

10. Now, this Court has to decide the following points for consideration :

(1) Whether the accident occurred due to the rash and negligent act of the driver of the 1st respondent?

(2) Whether the quantum of compensation awarded by the Tribunal is highly excessive?

11. Point No.1 :

As per the appellant, Ex.P5 rough sketch would go to show that the accident did not take place due to negligence on the part of the



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driver of the first respondent. But the deceased has contributed to the accident by his own negligence. The learned counsel for the appellant argued that the Tribunal had not chosen to take note of the direction in which the deceased was travelling at the time of the accident, and it ought to have found that the accident was a result of a head-on collision.

12. On perusal of records, we find that the complaint in Ex.P1 was lodged by P.W.2 Pandiarajan who was an eyewitness to the occurrence, soon after the accident. The accident occurred on 25.09.2012 at about 13.30 hours. Without any delay, the complaint was lodged on the same day at about 15.00 hours. P.W.1 further deposed that the accident occurred due to the rash and negligent act of the driver of the Ambassador car bearing Registration No.TN 63–U 3737 belonging to the first respondent. Though the appellant contended that the accident was the result of a head-on collision, but no such complaint was ever lodged by the driver of the first respondent alleging that the deceased Thiagarajan had contributed negligence towards the occurrence. It is pertinent to note that the driver of the 1st respondent's car did not sustain any injury in the said accident. Ex.P.2 post-mortem report establishes the multiple injuries sustained by the deceased Thiagarajan. Further, Ex.P4



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is the final report filed by the Inspector of Police, Kundrakudi Police Station in crime No.105 of 2012 against the driver of the Ambassador car Thiru.Rajasekar under Section 304A IPC. In the said report, it was stated that on the date of occurrence viz., on 25.09.2012 at about 13.30 hours, the deceased Thiagarajan was riding his two-wheeler bearing Registration No.TN 63-AA-7792 (TVS Apache) from East to West proceeding on the left corner of the road and at that time, the accused Rajasekar, who was driving the car bearing Registration No.TN 63 U 3737 from West to East, in a rash and negligent manner dashed against the two-wheeler, resulting in the accident wherein, the deceased Thiagarajan, sustained head injury and subsequently, succumbed to death. The appellant/Insurance Company did not put forth any question to the claimants regarding the negligence on the part of the deceased. Further, he has not chosen to examine P.W.2, the sole eyewitness to the occurrence. Therefore, at this stage, the appellant cannot be permitted to raise the point of contributory negligence.

13. Further, the FIR and the final report were not challenged by the driver of the offending vehicle. Ex.P5 is the rough sketch, wherein the investigating officer has clearly shown the place of the accident. The



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place of occurrence has been marked on the eastern edge of the East-West Road (Kundrakudi to Karaikudi). In the final report, it has been categorically stated that the deceased was riding his two-wheeler from East to West on the left side corner of the road whereas, the offending vehicle was being driven from West to East on the same road. As per the rough sketch, the place of occurrence is shown on the left side corner on the East - West Road, which establishes that the two wheeler was proceeding properly on the left side of the road and the Ambassador car which ought to have been driven on its own opposite side, while proceeding from West to East, had instead swerved and dashed against the two wheeler on the left side, where it was not supposed to ply. Therefore, it is not proved that the accident occurred due to the head-on collision or that there was any negligence on the part of the deceased. Point No.1 is answered accordingly.

14. Point No.2

The learned counsel for the appellant/Insurance Company further objected to the quantum awarded by the Tribunal by stating that it is highly excessive and arbitrary, as the claimants failed to prove that, the deceased accepted the offer of employment by a company in a foreign

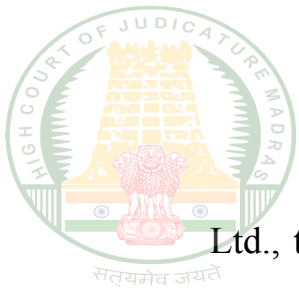


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country and failed to take into consideration that the S passport was issued by a foreign country on account of previous employment being cancelled before the accident, and there is no convincing proof that the deceased was employed by another company or that he was offered employment and the same was accepted by the deceased.

15. The claimants produced the passport of the deceased as Ex.P7 to establish that from the year 2006 to September 2012, the deceased was frequently flying between India and Singapore. Ex.P8 is the passbook issued in respect of the PAG passbook issued by POSB savings account and this demonstrates that the deceased was receiving his monthly salary through the said account. It is further shown that during August 2012, he received a sum of SGD 2050 in his account. Furthermore, Ex.P12 is the salary certificate issued by Jenmon International PTE Limited where the deceased was employed as Supervisor which shows that during July 2012 and August 2012 the deceased received gross wages of SGD 2050 through his bank account (Ex.P8). Ex.P7, Ex.P8, and Ex.P12 established that the deceased was working in Singapore and was earning a good salary. Ex.P9 is the appointment order issued by one Stellar Ship Management Services PTE



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Ltd., to the deceased but it lacks essential particulars and does not bear the proper seal and signature of the employer. The Claims Tribunal, without accepting Ex.P9, but taking into consideration the deceased's previous employment, compared the employment opportunity in India and reasonably fixed the monthly income at Rs.45,000/- per month. We do not find any error in the determination of the deceased's monthly income. We find that the assessment is just and reasonable. The Tribunal has awarded only a moderate compensation, which needs no interference. There is no strong reason found in the Civil Miscellaneous Appeal to set aside the order of the Tribunal. Therefore, we do not find any merit in the Civil Miscellaneous Appeal, and hence, the Civil Miscellaneous Appeal is liable to be dismissed. Point No.2 is answered accordingly.

16. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(A.D.J.C., J.) & (R.P., J.)
25.09.2025

Index : Yes / No
NCC : Yes / No
RM

14/16



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To

- 1.The Subordinate Court,
Motor Accident Claims Tribunal,
Devakottai.

Copy to

- 1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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A.D.JAGADISH CHANDIRA, J.
AND
R.POORNIMA, J.

RM

Judgment in
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