

C.M.A.(MD) No.1602 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :27.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1602 of 2024

1.Sumathi
2.Ajitha

... Appellants/Petitioners

vs.

1.K.Sanmugaiyah
2.The Manager
Iffco-Tokyo General Insurance Company Ltd.,
No.82, Piritham Plaza Ist Floor, Chandragandi Nagar,
Ponmeni, Madurai Town.

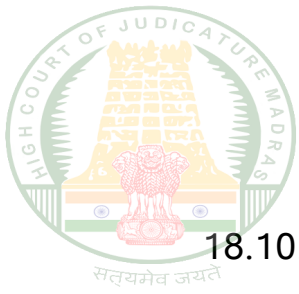
3.Umaselvi

4.The Divisional Manager
National Insurance Company Ltd
No.3, North Veli Street,
Madurai Town.

5.Saravanakumar

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Sectoin 173 of the Motor Vehicles Act, 1988 against judgment and decree dated



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18.10.2024 made in M.C.O.P.No.81 of 2021 passed by the Motor Accidents Claims Tribunal/Additional District Court, Paramakudi.

For appellant : Mr.D.Senthil
For Respondents
For R2 : Mr.V.Sakthivel
For R1, R4 & R5 : No appearance
For R3 : Unclaimed

J U D G M E N T

Challenging the apportionment made by the Tribunal among the mother, sister and father of the deceased. The mother of the deceased has preferred this Civil Miscellaneous Appeal against the award dated 18.10.2024 made in M.C.O.P.No.81 of 2021 by the Motor Accidents Claims Tribunal/Additional District Court, Paramakudi.

2. Heard the arguments of learned counsel for the appellant and learned counsel for the second respondent.

3. Claim petition was filed by the mother and sister of the deceased Ajith Krishnan before the Tribunal, claiming compensation of Rs.75,00,000/- for the death of Ajith Krishnan in a



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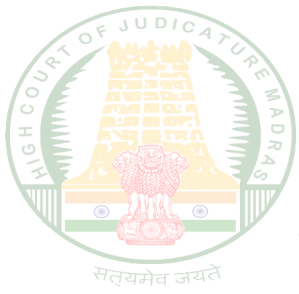
road traffic that occurred on 13.05.2021.

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4. Upon consideration, the Tribunal passed an award for a sum of Rs.31,34,000/- and apportionment was fixed for mother, sister and father (fifth respondent) as 40:20:40, after the father of the deceased has been arrayed as fifth respondent in the claim petition.

5. On behalf of the fifth respondent/father of the deceased Ajith Krishnan, it was contended that in fact, he spent for funeral of his son. At the relevant point of time, the deceased was aged about 24 years.

6. The learned counsel for the appellants would contend that the mother of the deceased has filed petition for divorce before the Sub Court, Muthukulathoor, against the fifth respondent in H.M.O.P No.21 of 2023 and in fact, the deceased was brought up and educated by the mother. Therefore, granting of compensation of 40% to the fifth respondent (father) is not acceptable.



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7. If a person dies in the road accident, the dependants are entitled to claim compensation in accordance with law. In a claim petition, the Tribunal need not to go into the issues whether the deceased was brought up exclusively by mother or father. No doubt, both the mother and the father of the son are entitled to get compensation for the death of their son.

8. On a careful perusal of the details of the claim petition, the claim petition was filed by the mother and sister of the deceased and the father of the deceased has been arrayed as fifth respondent. Both the claimants (mother and sister) are residing at Muthukulathur Taluk and the fifth respondent is residing at Kadaladi Taluk in Ramanathapuram District.

9. It is the evidence of P.W.1 that because of the difference of opinion, after the birth of the children, her husband is not living with her and both are living in separation for the past 20 years. It is her further evidence that with utmost difficulties, she educated her son and he obtained a diploma decree.



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10. Father of the deceased is arrayed as fifth respondent. A perusal of the claim petition, the evidence of P.W.1 and the counter of the fifth respondent would reflect the fact that the husband and the wife are living in separation. The father did not file any claim petition claiming compensation for the death of his son.

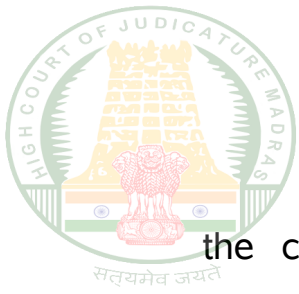
11. In consideration of the abovesaid details, as he is the father of the deceased, this Court deems it fit to apportion the compensation at 25% for the father and 55% for the mother.

11. In the result,

(i) The Civil Miscellaneous Appeal stands allowed. No costs.

(ii) The apportionment awarded by the Tribunal is modified. The mother, sister and father are entitled to 55:20:25 of the compensation amount of Rs.31,34,000/- awarded by the Tribunal.

(iii) The respondents 1 and 2 are directed to deposit the compensation amount of Rs.31,34,000/- (less the amount already deposited if any) with interest at 7.5% p.a. from the date of filing of



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the claim petition till the date of realisation to the credit of

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Tribunal, Additional District Court, Paramakudi, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants/appellants and fifth respondent are permitted to withdraw their share as mentioned supra, with interest, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

27.02.2025

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

To

1.The Additional District Judge,
The Motor Accidents Claims Tribunal,
The Additional District Court, Paramakudi.

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



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R.KALAIMATHI,J

apd

Pre-delivery order made in
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