

C.M.A.(MD)No.115 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 07.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.115 of 2025

and

C.M.P.(MD)No.1860 of 2025

The Divisional Manager,
Reliance General Insurance Company Ltd.,
Bye-pass Road, Madurai.

... Appellant

Vs.

1. Thangavel
2. Manoranjetham
3. Sasikala
4. Subbulakshmi
5. Tamilnadu State Transport Corporation,
Through its Managing Director,
Bye-Pass Road, Madurai.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Order 173 of Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 29.09.2023 passed in M.C.O.P.No.443 of 2014 on the file of the Motor Accident Claims Tribunal / Special District Judge, Madurai and allow the civil miscellaneous appeal.



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For Appellant : Mr.V.Sakthivel

For Respondents : No appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the order dated 29.09.2023 passed in M.C.O.P.No.443 of 2014 on the file of the Motor Accident Claims Tribunal / Special District Judge, Madurai, and claiming negligence on the part of Tamil Nadu State Transport Corporation driver and objecting as to the quantum fixed by the Tribunal.

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

3. The claimants are the parents and sister of the deceased medical college student, namely, Saravanan. The deceased Saravanan was pursuing first year in Velammal Medical College at Madurai.

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

(i) On 8.11.2013 at about 07.15 am, on the Madurai-Sivagangai



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Ring Road at Sivagangai bus stop near police booth, while the deceased was walking on the extreme left of the road, a lorry bearing Registration No.TN-69-AF-3981, which was driven in a rash and negligent manner in a very high speed without observing any rules and regulations of driving, dashed against the TNSTC bus bearing Registration No.TN-58-N-1930 and the bus in turn dashed against the deceased. The deceased Saravanan immediately fell down and sustained multiple grievous injuries all over the body and died on the spot. Immediately, the deceased was taken to the Government Rajaji Hospital at Madurai for post-mortem. Claiming to compensate the death of the said Saravanan, his surviving legal heirs, namely, his parents and sister, have laid M.C.O.P.No.443 of 2014 before the learned Tribunal. The deceased was 18 years old at the time of his death.

(ii) A criminal case was registered as against the first respondent driver in Crime No.442 of 2013 for the offence punishable under Sections 279, 337 and 304-A of IPC, at the Karuppayurani Police Station.

(iii) The first respondent is the owner of the lorry, and the second



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respondent is the insurer of the said vehicle. During the pendency of the trial, the second respondent / Insurance Company filed a counter statement stating that without the negligent act of the vehicle bearing Registration No.TN-58-N-1930 i.e., TNSTC bus, the accident would not have happened. Hence, the owner of the said vehicle is a necessary party to the claim petition. Consequently, the Managing Director of Tamil Nadu State Transport Corporation, Madurai, was impleaded as the third respondent.

(iv) The learned Trial Court examined two witnesses as P.W.1 and P.W.2 on the side of the petitioners and marked Ex.P.1 to Ex.P.17. No witnesses were examined nor any documents marked on the side of the respondents.

(v) On the basis of the evidence deposed, documents submitted and the arguments put forth by the respective parties, the learned Trial Court proceeded to partly allow the claim petition, directing the second respondent / Insurance Company to pay a compensation of Rs.31,39,000/- to the claimants. Challenging the same, the second respondent / Insurance Company has preferred this appeal before this Court.



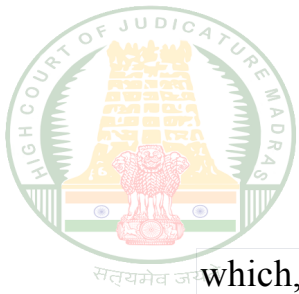
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5. The learned Counsel appearing for the appellant submitted that the liability fixed as against the driver of the lorry was without evidence and on that basis, pressed for allowing the appeal.

6. The learned Counsel appearing for the respondents submitted that there is no discrepancy in the award passed by the Tribunal and hence, the same need not be interfered.

7. Heard the learned Counsel on either side and carefully perused the materials available on record.

8. The learned Tribunal carefully analyzed the nature of the accident which happened on the fateful day, i.e., 08.11.2013. The learned Tribunal recorded the fact that on the fateful day, the lorry bearing Registration No. TN-69-AF-3981, owned by the first respondent, was driven in a rash and negligent manner along the Sivagangai Ring Road and had dashed against the TNSTC bus bearing Registration No. TN-58N-1930, belonging to the third respondent, in the anterior portion of the said bus. As a result of



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which, the bus was constrained to dash as against the deceased and losing control over the vehicle, the lorry further dashed against the police booth till it was stalled. As a consequence, the head of the deceased was severed and his body was smashed to pulp.

9. The learned Tribunal duly examined the eyewitness, who was examined as P.W.2 in which the said witness had deposed that the accident had happened exclusively due to the rash and negligent driving of the first respondent's driver. Observing that the said evidence deposed by P.W.2 fully correlates with the nature of accident elaborated in the First Information Report, the learned Tribunal further recorded the fact that the second respondent neither took any diligent steps to bring in appropriate evidence to defy the said statement or even properly cross-examine the said witness to substantiate that liability could be fastened to some extent on the third respondent as well. On that basis, the learned Tribunal completely fixed the entire liability on the driver of the first respondent, and directed the second respondent, the insurer of the said lorry, to pay the compensation amount to which the claimants are entitled to. That apart relying upon the judgment of the Honourable Supreme Court in the case of



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*National Insurance Company Limited Vs. Pranay Sethi and Others*¹, the learned Tribunal had fixed the notional monthly income of the deceased as Rs.20,000/- and had adopted a multiplier of 18. As a result of which, the learned Tribunal awarded a compensation of Rs.31,39,000/-.

10. I don't find any infirmity in the findings of the learned Trial Court. Having failed to take necessary steps before the learned Tribunal to substantiate their case, the appellant cannot make any further submission before this Court and this Court is not inclined to interfere with the award passed by the learned Tribunal. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

¹ (2017) 16 SCC 680



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L.VICTORIA GOWRI, J.,

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To

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

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