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CMA No.2073 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No.2073 of 2022

M/s.Royal Sundaram General Insurance Company
Limited

..Appellant(s)

Vs

1. B.Bakkiyalakshmi
2. B.Akilan (Minor)
(rep. By Mother and NF 1st respondent)
3. S.Annaraj
4. A.Mariathangam
5. S.Ganesan
6. R.Murugan

..Respondent(s)

Appeal against the Judgment and Decree in M.C.O.P.No.1008 of 2015,
dated 08.04.2022 on the file of the Motor Accidents Claims Tribunal - III
Additional District and Sessions Court, Dharapuram.

For Appellant(s):

Mr.M.B.Raghavan
for M/s.M.B.Gopalan Associates



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For Respondent(s): Mr.Ma.P.Thangavel
for R1, R2 and R4

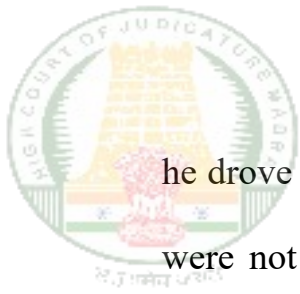
JUDGMENT

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

This appeal had been filed questioning the order, dated 08.04.2022, passed in M.C.O.P.No.1008 of 2015 by the Motor Accident Claims Tribunal – cum- III Additional District Court, Dharapuram.

2. In the Claim Petition, it had been contended by the petitioners that the deceased Bakkiaraj was working as a loading and unloading worker and he used to earn Rs.20,000/- per month. It was also contended that on 23.07.2015 at about 10.45 a.m., the deceased was travelling in a van bearing registration No.TN60U 6552 as a loading and unloading worker. At that time, the fifth respondent herein, who was driving the van in a rash and negligent manner at high speed, lost the control of the vehicle and applied sudden breaks, due to which the deceased and two others were thrown off from the van and had fallen down on the road, thereby sustaining grievous injuries all over their body. The deceased was taken to Government Hospital at Chinnamanur for treatment and he died on the same day due to the injuries sustained in the accident.

3. The driver and the owner of the vehicle in the Claim Petition filed a counter affidavit, denying and disputing the averments made in the petition. They contended that the driver was having valid licence to drive the vehicle and



he drove the vehicle with due care and observing road rules and, therefore, they were not liable for the accident and also to pay compensation. Accordingly, they prayed for dismissal of the petition.

4. The Insurer in the Claim Petition also filed a separate counter affidavit, denying the allegations contained in the petition. It was contended that the deceased was travelling in the van as an unauthorised passenger and the accident occurred due to the negligence of the deceased. It was also contended that the policy issued to the vehicle did not cover the risk in respect of the accident involving unauthorised passengers. It was further stated that deceased travelled in the back side door of the van, which was a violation of the policy and permit conditions. It was also contended that the van was a goods vehicle, which was intended solely for the purpose of carrying goods, and the deceased was an unauthorised passenger in the vehicle at the time of accident. Accordingly, the insurer sought for dismissal of the petition.

5. Based on the above pleadings, the trial Court framed necessary issues and proceeded with trial. On the side of petitioners, the first petitioner, who is the wife, examined herself as P.W.1 and one eye witness was examined as P.W.2. Exs.P-1 to P-15 were marked on behalf of the petitioners. On the side of respondents, R.Ws.1 to 3 were examined and Exs.R-1 to R-10 marked.

6. The Tribunal, on consideration of the evidence, both oral and documentary, partly allowed the petition and awarded a sum of Rs.21,42,800/- towards compensation to the petitioners, as against the claim of Rs.35,00,000/-.



Aggrieved by the said award, the insurer has come forward with the present appeal.

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7. The main contention of the appellant is that the deceased was not a load man and he was only an unauthorised passenger.

8. The question to be decided in this case is, whether the deceased was travelling as a load man or unauthorised passenger ?

9. On a combined reading of the oral evidence of P.Ws.1 and 2, coupled with R.W.1, we find that the deceased was travelling in the rear portion of the vehicle, which was a goods vehicle, as a load man and not as an unauthorised passenger, and he was not sitting in the cabin of the vehicle.

10. Learned counsel for the appellant would fairly concede to the liability fixed by the Tribunal. However, he would dispute the quantum awarded by the Tribunal. In this regard, he cites a decision of the Madurai Bench of this Court in C.M.A.(MD).No.500 of 2019, dated 28.04.2022, and requests this Court to adopt the same ratio in this case also.

11. Following the said decision, the amount awarded by the Tribunal under the head “Loss of Dependency” at Rs.19,27,800/- is confirmed. The amount awarded under the head “Loss of Estate” at Rs.30,000/- is set aside. The amount awarded under the head “Consortium” at Rs.1,60,000/- is confirmed. The amount awarded under the head “Funeral Expenses” at Rs.15,000/- is confirmed. The amount awarded under the head “Transport Expenses” is enhanced from Rs.10,000/- to Rs.15,000/-.



12. Calculating the above, the total award amount comes to Rs.19,27,800/- + 1,60,000/- +15,000/- + 15,000/- = 21,17,800/-. Thus, the award of the Tribunal is modified to Rs.21,17,800/- as against Rs.21,42,800/-, thereby reducing a sum of Rs.25,000/-. This variation of Rs.25,000/- can be adjusted in the entitlement of the minor second petitioner, who is the second respondent herein. In all other aspects, the award of the tribunal stands.

13. Civil Miscellaneous Appeal is disposed of accordingly. No costs. Consequently, the connected C.M.P.No.16057 of 2022 is closed.

(C.V.K.,J.) (K.R.S.,J.)
15-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

DIXIT

To

Motor Accidents Claims Tribunal -
III Additional District and Sessions Court,
Dharapuram.



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**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

DIXIT

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