(2026) 01 MAD CK 1850

In the Madras High Court

Case No : Civil Miscellaneous Appeal No. 2885, 3084 Of 2021, 2091, Civil Miscellaneous Petition No. 16577, 17466 Of 2021

Shriram General Insurance Co. Ltd And Others APPELLANT

Vs

G.M.Vasantha And Others RESPONDENT

Date of Decision : 28-01-2026

Acts Referred:
Motor Vehicles Act, 1988 — Section 166

Citation : (2026) 01 MAD CK 1850

Hon'ble Judges : C.V. Karthikeyan, J;K.Kumaresh Babu, J

Bench : Division Bench

Advocate : S.Dhakshnamoorthy, D.Ramesh, D.Thirumoorthy, S.Arun Kumar

Final Decision : Disposed Of

Judgement

K.Kumaresh Babu, J

1. The present Civil Miscellaneous Appeals have been filed against the award vide the decree and judgement dated 01.10.2020 made in M.C.O.P No.135 of 2014 on the file of M.A.C.T(Sub Court) Gudiyattam and to set aside the same.

2. The facts giving arise to filing the present appeals are, that one Mr.Krishnamoorthy, who was employed in the Euro Clothing Company, had died in a road accident on 06.06.2014. On the said date, Mr.Krishanamoorthy was riding a two wheeler bearing Registration No. TN-23-M-6881, at that time another two wheeler, a Hero Honda Shine, bearing Registration No.TN-23-BK-1191 driven by its rider in a rash and negligent manner, dashed against the vehicle of Mr.Krishnamoorthy. As a result of the impact, Mr.Krishnamoorthy was thrown off his vehicle and fell onto the road. Thereafter a Compressor tank lorry bearing Registration No. TN-49-M-5636 driven by it driver in a rash and negligent manner, ran over the Mr.Krishnamoorthy, causing fatal injuries to him, as the result of which he died on the spot.

3. The respondents 1 to 4 in both the appeals are the dependents of the

deceased, the 1st respondent is the wife of the deceased, the 2nd and 3rd are the children of the deceased and the 4th respondent is the mother of the deceased. Subsequently the dependents along with one Mr.Mani(died), the father of the deceased, had approached the Motor Accident Claims Tribunal, Gudiyatam and had filed a Claims petition under Section 166 of the Motor Vehicles Act, 1988 in M.C.O.P.No.135 of 2014, seeking a Compensation tune to Rs.50,00,000/-. The said claim was made against the drivers of both the offending vehicles, namely, the Hero Honda Shine Two Wheeler and the Compressor Lorry, who were impleaded as the respondents 1 and 3 respectively, along with their respective insurance companies, which were impleaded as the respondents 2 and 4 in the Claims petition.

4. The Claims Tribunal after hearing both the sides and upon consideration of both the oral and documentary evidences available on record, had held that both the drivers of the offending vehicles, namely, two-wheeler bearing registration number of TN-23-BK-1191 and lorry bearing registration number of TN-49-M-5636, were equally negligent and equally responsible for causing the accident. Accordingly, the learned Claims Tribunal vide its order and decree dated 01.10.2020 awarded a sum of Rs.58,62,500/-, as a compensation, together with interest of 7.5% per annum. Further it was directed that the insurance companies with which the offending vehicles were insured, were liable to deposit their equal share towards the quantum of compensation, within two months from the date of the tribunal's order.

5. The driver of the Offending Two Wheeler bearing the Registration No. TN-23-BK-1191, has been impleaded as the 5th respondent and the insurance company with which the aforesaid vehicle was insured is the appellant in the C.M.A.No.2885 of 2021.

6. The driver of the Lorry bearing the Registration No. TN-49-M-5636 has been impleaded as the 7th respondent and the insurance company with which the aforesaid vehicle was insured is the appellant, in the C.M.A.No.3084 of 2021.

7. Heard Mr.S.Dhaksnamoorthy the learned counsel appearing on behalf of the appellant in CMA.No.3084 of 2021, Mr.S.Arun Kumar the learned counsel appearing on behalf of the appellant in CMA.No.2885 of 2021 and Mr.D.Ramesh the learned counsel appearing on behalf of Mr.D.Thirumoorthy the learned counsel for the respondents 1 to 4.

C.M.A.No.3084 of 2021:-

8. Mr. Mr.S.Dhaksnamoorthy, learned counsel for the appellant would submit that the, appellant was the insurer for the lorry vehicle bearing Reg.No.TN-49-M-5636 which was driven by the 7th respondent. He submits that the Claims Tribunal committed a grave error in apportioning negligence equally between the drivers of both the offending vehicles, namely, the Hero Honda two wheeler and the lorry, whereas the accident was primarily caused by the rash and negligent act of the driver of the two wheeler, the 5th respondent herein, who dashed against the

vehicle of the deceased causing him to fall down and run over by the lorry. Hence, a higher degree of negligence ought to have been fastened on to the rider of the two wheeler and its insurer, i.e.,the 5th and 6th respondents herein.

9. He further submits the Claims Tribunal had erred while calculating the Loss of dependency, by considering the Future Prospects as 50%, whereas only 40% should have added. He also submits that the Claims Tribunal failed to make any deduction towards the Income Tax, Professional Tax, etc while calculating the total income of the deceased. He concludes by contending that the award granted by the Claims Tribunal is against the principles laid down by the Hon'ble Apex Court. Therefore he seeks this court indulgence of the award dated 01.10.2020.

CMA No.2885 of 2021:-

10. Mr.S.Arun Kumar, the learned counsel appearing on behalf of the appellant, who was the insurer for the Two Wheeler bearing a Reg.No.TN-23-BK-1191, which was driven by the 5th respondent herein. He submits that the Learned Claims Tribunal erred in holding the drivers of both the vehicles, namely Two Wheeler and the Compressor Tanker Lorry equally responsible for the accident. Its submitted that the tribunal failed to appreciate the Police investigation, It is submitted that the police investigation attributed responsibility to the rider of the two-wheeler only to the extent of causing simple injuries, while the driver of the lorry, the 7th respondent herein, was responsible for the death of the deceased. Hence, not more than 20% negligence ought to have been fastened on the rider of the two-wheeler.

11. He further submits that the Learned Claims Tribunal has failed to consider the contributory negligence of the deceased, as there is no proof that the deceased was wearing a helmet at the time of the accident. Its contended that the dependants of the deceased have failed to produce acceptable proof regarding the actual monthly income of the deceased. Therefore, the fixation of monthly income of the deceased at Rs.25,000/- is erroneous. He further submits that the tribunal erred in granting 50% towards the future prospects which is unsustainable. Therefore he prays that the award granted by the Claims tribunal dated 01.10.2020 is untenable and seeks intervention from this court.

12. Countering the above arguments,Mr.D.Ramesh, the learned counsel appearing on behalf of the respondents 1 to 4 would submit that the Claim Tribunal had rightly held that the riders of the both the offending vehicles, namely the Two Wheeler and the Lorry are equally liable to the accident which eventually led to the death of the deceased. He submits that the last income received by the deceased was Rs.29,032/-, whereas the tribunal had only considered Rs.25,000/- as the monthly income of the deceased while calculating the compensation under the head of Loss of dependency. He submits that the Compensation awarded is just and reasonable, and does not warrant any interference from this court; hence he prays this court to dismiss both the

appeals.

13. We have considered the submissions made by the respective counsel and perused the material on record.

14. It is the contention of both the appellants is that the Tribunal has erred considering the monthly income of the deceased as Rs.25,000/-. But upon perusing the deposition made by the RW2, the Assistant HR Manager where the deceased was employed and Ex.P17, the last payslip received by the deceased for the month of February 2014, substantiates that the monthly income of the deceased was Rs.25,000/- per month. The contention made by the respondents 1 to 4 that the last income received by the deceased was Rs.29,032/- as shown in the Ex.P17, cannot be considered as rightly held by Tribunal because an excess sum of Rs.4032.00/- was paid as arrears but the actual monthly income of the deceased at the time of his death was Rs.25,000/-.

15.This Court also finds no infirmity or illegality in the findings of the learned Tribunal, in fastening the responsibility for the accident on both the drivers of the offending vehicles and holding them equally liable. Further the primary contention made by the appellants side with regards to the Future Prospects is that the, Tribunal had erred in holding the Future Prospects at 50% instead of 40%. Applying Principles laid down by the Hon'ble Apex Court in the National Insurance Company Ltd., Vs Pranay Sethi and others case, this court holds that the Future Prospects should be considered at 40% and not 50%. Therefore applying the ratio laid down in Pranay Sethi's supra, in the instant case, it is held that the future prospects is to be reduced to 40%. Therefore the quantum of compensation awarded under the head of Loss of Dependency stands reduced to Rs.53,55,000/-. Other than the aforesaid modification under the head of Loss of Dependency, this court confirms the compensation granted under the other heads by the tribunal. Therefore the award granted by the Learned Tribunal, stands modified by this court, as tabulated hereunder:-

The Compensation allowed by this Court in comparison with the previously awarded compensation by the Claims Tribunal:

S.No

Title of the Heads

Compensation awarded by the Tribunal (in Rupees)

Compensation awarded by this Court (in Rupees)

Amount Confirmed/ Awarded/

Enhanced/ Reduced

1.

Loss of Dependency

Rs.57,37,500/- (Rs.25,000+50

% x 12 - ¼ x 17)

Rs.53,55,000/-

(Rs.25,000+40%

x 12 - ¼ x 17)

Reduced

2.

Loss of Consortium

Rs.40,000/-

Rs.40,000/-

Confirmed

3.

For Love and Affection

Rs.40,000/-

Rs.40,000/-

Confirmed

4.

For Funeral Expenses

Rs.15,000/-

Rs.15,000/-

Confirmed

5.

Loss of Estates

Rs.15,000/-

Rs.15,000/-

Confirmed

6.

Transportation

Rs.15,000/-

Rs.15,000/-

Confirmed

Total

Rs.58,62,500/-

Rs.54,80,000 /-

Reduced

16. In view of the aforesaid facts and circumstances, this court is of the view that other than the modification as indicated supra, the award granted by the Learned Tribunal vide its order dated 01.10.2020, stands confirmed. Further that the dependents of the deceased/ respondent 1 to 4 of both the appeals, are entitled to the compensation in same proportion as indicated supra, along with an interest at the rate of 7.5% per annum from the date of the Claims Petition. The appellants of both the appeals are together equally liable to pay the modified compensation along with its interests, whereas the appellant of C.M.A.No.3084 of 2021 is at the liberty to recover its share from the 7th respondent.

17. Therefore both appeals stands disposed and award dated 01.10.2020 stands modified as indicated above. Consequently the connected Miscellaneous petitions are closed. However, there shall be no orders as to costs.