2025 INSC 837

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. of 2025

(@SPECIAL LEAVE PETITION (CIVIL) NO.25092 OF 2024)

SUHAGRANI AND OTHERS …APPELLANT(S)

VERSUS

MANAGER CHOLAMANDALAM
MS GENERAL INSURANCE CO. LTD …RESPONDENT(S)

J U D G M E N T

Aravind Kumar, J.

1. Leave granted.

2. The appellants herein (i.e., the claimants before the Motor Vehicles Claims Tribunal) are challenging the judgment and award dated 08.02.2024 passed in Misc. Appeal No.5345 of 2023 by the High Court of Madhya Pradesh whereunder the appeal filed by the insurance company has been allowed and the claim petition has been dismissed and the judgment and

award passed by MACT, Deori, District Sagar (M.P) in MACC No.09/2022 dated 25.01.2023 has been set aside.

BRIEF BACKGROUND:

3. A claim petition under Section 166 of MV Act came to be filed by the appellants herein seeking compensation of Rs.1,88,08,448/- contending inter-alia that on 24.09.2021 Mr. Nathuram Ahirwar, husband of claimant No.1 and father of claimant No's. 2-4, while travelling on his motorcycle was hit by a mini-truck (Ape pick up vehicle) bearing registration No. MP 04 GB 5604 from hindside and as a result he fell down and sustained injuries due to which he expired on 01.10.2021 while being treated. On being notified of the claim the insurer filed its statements of objections contending *inter alia* that accident had occurred due to negligence of deceased himself namely he had lost balance while driving and therefore deceased fell down from his vehicle and the theory of the offending vehicle having caused the accident is far from truth. It was also contended that claimants had colluded with the driver of the 'Ape' vehicle (offending vehicle) to raise the plea of accident having been caused by 'Ape' vehicle which is totally incorrect and even otherwise the driver of 'Ape' vehicle did not possess valid driving license and as such insurer of the offending vehicle is not required to indemnify the claim. The respondent No.1 before the tribunal i.e. the driver

of the offending vehicle had been placed ex-parte. On the basis of the pleadings of the party, the tribunal framed five issues for its determination.

4. In order to discharge the burden cast on the appellants, wife of the deceased got herself examined as PW-1 and also examined her son i.e., claimant No.3 as PW-2 and in all produced 48 documents which were marked as Exhibits P1 to 48. On behalf of the insurance company none were examined, and 3 documents were produced in support of the defence.

FINDINGS OF THE TRIBUNAL:

5. The tribunal after considering the material on record held that the accident had been caused by the offending vehicle and the deceased had expired due to the injuries sustained in the accident. Hence, tribunal awarded a total compensation of Rs.12,43,324/- with interest @ 6% p.a. from the date of filing of claim petition till date of payment.

FINDINGS OF THE HIGH COURT:

6. The insurer of the offending vehicle challenged the judgment and award of the tribunal which came to be allowed primarily on two grounds, namely, **(i)** the Claimant No.3, Naresh Kumar, PW-2 had admitted that he had given his statement before the police which was to the effect that deceased had sustained injuries after falling from the motorcycle due to

imbalance and as such the theory of the accident having been caused by the offending vehicle is far-fetched; **(ii)** the wife of the deceased-PW.1 who was the pillion rider had witnessed the accident and she had admitted that she had not seen the registration number of the offending vehicle and the story of her son in law who was following them having seen the registration number of the offending vehicle cannot be believed as he was not examined. On these amongst other grounds as discussed under the impugned judgment, the High Court had allowed the appeal of the insurer by absolving the insurer of its liability and dismissed the claim petition. Hence, this appeal by the claimants.

CONTENTIONS RAISED ON BEHALF OF PARTIES:

7. It is the contention of the learned Counsel appearing for the claimants that tribunal had passed a well-reasoned award by taking into consideration the statement of PW-1, i.e., the wife of the deceased who was a pillion rider of the vehicle which deceased was driving, and her evidence could not have been brushed aside by the appellate court. He would further contend that PW-2 was not present at the time of the accident and High Court had committed a grave error in giving undue importance to his statement recorded by the police particularly when he had retraced his statement or in other words had denied giving his statement to the police, when he deposed before the Tribunal. It is also his contention that non-examination of son-in-

law of the claimant No.1 was not fatal as was sought to be made out by the High Court for dismissing the claim petition, since, overwhelming evidence clearly establish the accident having been caused by the offending vehicle. Hence, he prays for appeal being allowed and has also sought for enhancement of the compensation contending *inter alia*, that the compensation awarded by the tribunal under all heads is abysmally on the lower side.

8. Per contra, the learned counsel appearing for the insurer would support the impugned judgment. By elaborating his submissions he would also contend that when the eye-witness to the accident has clearly stated before the police about the manner in which the accident had occurred, there was no occasion for the tribunal to discard said evidence, and High Court has rightly interfered with the award of the tribunal. Hence, he prays for appeal being dismissed.

OUR FINDINGS:

9. Having heard the learned Counsels appearing for the parties and on perusal of the case papers in general and particularly the evidence of PW-1 namely the claimant No.1, it would emerge therefrom that PW-1 has deposed that she was proceeding as a pillion rider on a motorcycle driven by her deceased husband and said vehicle was hit by a mini truck from hindside resulting in both PW-1 and the deceased falling down and deceased having

sustained grievous injuries. The evidence tendered before the tribunal particularly Ex.P-02 (MLC Information to Discharge, Neuron Hospital), Ex.P-06 i.e., death report, Ex.P-07 death information sent to the police station, Gaurjhamar, Ex.P-08 FIR, Ex.P-11 i.e., the final report would clearly indicate that the accident in question had occurred on account of rash and negligent driving of the offending vehicle namely mini truck. However, by relying upon the statement of Naresh, PW-2 the insurer has made an attempt to stave off its liability by contending PW-2 had admitted before the jurisdictional police that deceased had himself fallen on account of his vehicle having fallen due to loss of balance. This statement made by PW2 before the jurisdictional police has found favour with the High Court and thereby disbelieved the plea of the claimants which had been accepted by the Tribunal. However, the High Court erred in not taking into consideration the fact that PW-2 when confronted while being cross-examined with his statement made to the jurisdictional police exhibit D-1 has denied having given such statement. He has also specifically deposed that he has not stated before the police that his father had fallen from the motorcycle on his own accord. He has specifically denied that false complaint has been lodged by the claimant before the jurisdictional police. The jurisdictional police who had recorded the statement (Ex-D1) of PW-2 was not examined. No attempts have been made by the insurer of the offending vehicle to prove the contents of Ex-D1. This is yet another reason as to why the findings recorded by the

High Court in this regard cannot be sustained. The fact that the jurisdictional police had conducted investigation and recorded the statement of various persons during course of investigation had resulted in filing of the chargesheet against the driver of the offending vehicle which is not in dispute has been completely ignored by the High Court and it has proceeded to doubt the very occurrence of the accident, by ignoring the vital evidence available on record. No reason has been assigned by the High Court as to why the said evidence was being brushed aside or not taken into consideration.

10. PW-1, the wife of the deceased who was the pillion rider was the best witness, as she was accompanying the deceased and was present at the time of the accident. She had entered the witness box and deposed as to the manner in which the accident had occurred. Non-filing of the complaint immediately after the occurrence of the accident by her would not be fatal particularly when the near and dear of the claimants were in trauma and were attending to the immediate requirement of medical attention to the deceased. From the evidence on record it would reveal that appellants were running from one hospital to another as advised by the doctors to save the precious life of the husband of the first appellant. As such, we are of the considered view that the High Court fell into error in ignoring the evidence of PW-1 or rather getting swayed by the fact that the son in law of PW-1 who was

following them having not been examined as fatal to the claimant's plea. Further it is to be noted that, at no point of time the insurer has challenged the chargesheet filed against the driver of the offending vehicle. For these cumulative reasons, we are unable to accept the arguments canvassed on behalf of the insurer who has reiterated the contents of the counter affidavit filed before this Court and same stands rejected and consequently findings recorded by the High Court are liable to be set aside and accordingly are set aside.

11. In so far as the determination of the compensation is concerned, the tribunal has awarded a total compensation of Rs.12,43,324/- with interest @6% p.a. Though, appellants would vehemently contend that compensation awarded by the tribunal is abysmally on the lower side and would elaborate his submissions by contending that the deceased was engaged in agricultural farming and used to earn Rs.10,00,000/- to Rs.20,00,000/- annually, we are unable to accept the said contention for reason more than one. ***Firstly***, claim regarding the income of the deceased as pleaded cannot be accepted for the simple reason that apart from the self-assertion of the appellants, no documentary evidence of whatsoever nature has been placed on record to establish the same. Even if it is accepted that the deceased was earning income by carrying out agricultural operations and due to his death income from the agricultural land is not lost. The agricultural land has remained with

the claimants and at the most the claimants would be entitled to be compensated for "supervision charges" that they may have to incur in carrying out the agricultural operations. ***Secondly,*** The tribunal had erred in not considering that there would not have been total deprivation of the pension to the wife of the deceased and in this regard no evidence has been tendered or no questions having been posed in the cross-examination of PW-1, itself is sufficient to hold or arrive at a conclusion that the loss of dependency that had occasioned due to non-considering the agricultural income has been offset by considering the fact that entire pension is not deprived to the claimants or in other words there would have been loss of pension probably to the extent of 50% only and the total pension of deceased taken as loss of income to the dependents would offset the loss of income from agricultural operations for the purpose of computation of loss of dependency. Even if fresh exercise is undertaken to compute the compensation, there could be only marginal increase and as such we do not propose to enhance the compensation and/or reduce the same as awarded by the Tribunal. Hence, we affirm the compensation awarded by the tribunal as just and reasonable compensation.

12. Having regard to the fact that on the date of demise of the father of claimant's 2 to 4, were majors, the apportionment has to be commensurate with their age and as such we are of the considered view that major portion

of the compensation has to be apportioned to the wife of the deceased namely to the extent of 85% and the balance 15% in the ratio of 5:5:5 shall be apportioned in favour of the claimants' 2 to 4 i.e., appellant No's.2 to 4 herein. The award of the tribunal to aforesaid extent stands modified, and the registry of this Court is directed to draw the award accordingly.

13. In the above terms, the appeal stands allowed in part. No order as to costs. Pending application(s) if any shall stand consigned to records.

……., J.
[J.K. MAHESHWARI]

……., J.
[ARAVIND KUMAR]

New Delhi;
July 14, 2025.