

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2017

(Judgment Reserved on : 14.03.2017)

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.No.913 of 2006

and

C.M.P.No.3600 of 2006

The New India Assurance Co. Ltd.,
171, Thambu Chetty Street,
Chennai.

.. Appellant / 2nd Respondent

.. Vs ..

1. Natarajan

2. Rajendran

3. Pattammal

4. Chandran

.. Respondents 1 to 3/Petitioners

.. 4th Respondent / 1st Respondent

(4th respondent ex-parte before
the Lower Court. Hence, notice
may be dispensed with)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.12.2003 made in M.C.O.P.No.477 of 2002 on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.I, Tindivanam.

For Appellant : Ms.Harini
for M/s.N.Vijayaraghavan
For RR-1 to 3 : Mr.P.Mani
For R-4 : Ex-parte
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JUDGMENT

This civil miscellaneous appeal is directed against the judgment and decree dated 23.12.2003 made in M.C.O.P.No.477 of 2002 on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.I, Tindivanam.

2. The respondents 1 to 3 herein, who are the sons and wife of the deceased respectively, as claimants have filed a claim petition in M.C.O.P.No.477 of 2002 before the Motor Accidents Claims Tribunal, Fast Track Court No.I, Tindivanam, claiming a sum of Rs.1,50,000/- as compensation for the death of the deceased Ranganathan against the fourth respondent and appellant herein. The Tribunal, after considering the evidence adduced on the side of the claimants, awarded a sum of Rs.1,35,000/- along with interest at the rate of 9% per annum from the date of petition and the respondents therein were

directed to deposit the said amount before the Tribunal within 30 days. Aggrieved against the said award passed by the Tribunal, the present appeal is preferred by the appellant / second respondent.

3. The learned counsel for the appellant / Insurance Company would mainly contend that the deceased did not die due to the accident mentioned in the Accident Register and the deceased would have died due to some other reasons and hence, the appellant/insurance company is not liable to pay damages for the death of the deceased. Therefore, the learned counsel for the appellant prayed that the award passed by the Tribunal has to be set aside and the appeal has to be allowed.

4. The learned counsel for the respondents 1 to 3 / claimants would vehemently contend that the deceased died due to brain injury and which fact was evidenced from the Post-mortem certificate. The Tribunal, after considering the entire facts and circumstances of the case, correctly awarded damages to the claimants and therefore, there is no illegality or infirmity in the award passed by the Tribunal. Hence, the learned counsel for the respondents 1 to 3 prayed that the

award passed by the Tribunal has to be confirmed and the civil miscellaneous appeal has to be dismissed.

5. This Court considered the submissions made by the learned counsel appearing for the appellant and the learned counsel appearing for the respondents 1 to 3 and perused the entire records.

6. On perusal of the copy of Post-mortem Certificate-Ex.P.2 and Accident Register-Ex.P.3, it is clear that at the time of accident, head injury was caused to the deceased and as a result of which, the deceased died. Hence, the argument of the learned counsel for the appellant that the deceased would not have died due to the head injury is liable to be rejected. In this case, the learned counsel for the appellant has not questioned about the quantum of compensation awarded by the Tribunal. The Tribunal, after considering the entire facts and circumstances of the case, awarded just and reasonable compensation. Hence, this Court is of the considered view that there is no illegality or infirmity in the award passed by the Tribunal and there is no merit in the appeal and hence, the civil miscellaneous appeal deserves to be dismissed.

7. In the result, the Civil Miscellaneous Appeal is dismissed by confirming the judgment and decree dated 23.12.2003 made in M.C.O.P.No.477 of 2002 on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.I, Tindivanam. Consequently, the connected miscellaneous petition is closed. No costs.

27.03.2017

Internet : Yes
Jrl

To

1. The Motor Accidents Claims Tribunal,
Fast Track Court No.I, Tindivanam.
2. The Record Keeper,
V.R. Section, High Court,
Madras.

G.CHOCKALINGAM, J.

Jrl

**Judgment in
C.M.A.No.913 of 2006**

27.03.2017

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