

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.102 of 2010

&

M.P.No.1 of 2010

The Director of Rural Development,
Kuralagam,
Chennai. ...Appellant
Vs

1.Jeyanthi
2.Minor Aarthi
3.Minor Priya
4.Minor Manikandan
5.Packirisamy
6.Packiriyammal ...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.04.2009 passed by the Motor Accident Claims Tribunal, (District Court), Nagapattinam, made in MCOP.No.399 of 2007.

For Appellant : Mr.M.Venkadesh Kumar Government Advocate

For Respondents 1 & 6 : Mr.T.P.Senthil Kumar

JUDGMENT

The instant appeal has been filed challenging the Award dated 24.04.2009 passed by the Motor Accident Claims Tribunal (District Court, Nagapattinam) in MCOP.No.399 of 2007.

The brief facts leading to the filing of the instant appeal are as follows:

2. One Kannaiyan died on 22.12.2004 as a result of an accident caused by a jeep bearing registration No.TN04-G-0122 owned by the Appellant. The dependents of the deceased Kannaiyan who are the respondents 1 to 6 in the instant appeal, preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.399 of 2007 seeking a compensation of Rs.6,00,000/-. The Motor Accident Claims Tribunal by its Award dated 24.04.2009 in MCOP.No.399 of 2007 directed the Appellant to pay the respondents 1 to 6 a sum of Rs.5,00,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

3. Aggrieved by the Award dated 24.04.2009 passed in MCOP.No.399 of 2007, the instant Appeal has been filed by the Appellant.

4. Heard Mr.M.Venkadesh Kumar, learned Government Advocate for the Appellant and Mr.T.P.Senthil Kumar, learned counsel for the respondents 1 to 6.

5. According to the learned counsel for the Appellant, the Tribunal under the impugned Awarded has erroneously assessed the notional monthly income of the deceased at the time of the accident at Rs.3,000/-. The learned counsel for the Appellant would contend that the Tribunal under the impugned Award has erroneously come to the conclusion without any basis that only due to the rash and negligent driving by the driver of the jeep owned by the Appellant, the accident had happened, which resulted in the death of kannaiyan.

6. According to the learned counsel for the Appellant, the driver of the jeep has been acquitted on 11.12.2006 by the Judgment passed by the Chief Judicial Magistrate, Nagapattinam, which was marked as Ex.R1 before the Tribunal. According to the learned counsel for the Appellant, the Tribunal has not considered this fact under the impugned Award and has erroneously held the Appellant liable to pay compensation to the respondents 1 to 6 for the death of Kannaiyan. The learned counsel for the Appellant would further contend that the quantum of compensation awarded to the respondents 1 to 6 is excessive and not in accordance with the settled principles of law as laid down by the decisions of the Hon'ble Supreme Court as well as by this Court.

7. This Court has examined the impugned Award.

8. The Tribunal has given a clear finding that only due to the rash and negligent driving by the driver of the jeep owned by the Appellant, the accident had happened which resulted in the death of Kannaiyan. The respondents 1 to 6 have taken a consistent stand that only due to the rash and negligent driving by the driver of the jeep owned by the Appellant, the accident had happened.

9. The First Information Report was registered only against the driver of the jeep owned by the Appellant on the same date of the accident. In the Judgment dated 11.12.2006 passed by the Chief Judicial Magistrate (Nagapattinam) which was marked as Ex.R1 before the Tribunal, the driver of the jeep owned by the Appellant was acquitted only on the ground that no eye-witness was examined by the prosecution. The Tribunal under the impugned Award has also recorded the said fact and held that Ex.R1, the Judgment passed by the Chief Judicial Magistrate (Nagapattinam) will not help the case of the Appellant.

10. The grounds raised before this Court by the Appellant, disputing his liability to pay the compensation to the respondents 1 to 6 were raised by the Appellant before the Tribunal also, in their counter statement as well as in their oral evidence. The Tribunal has considered all the defences raised by the Appellant and only thereafter, has passed the Award, directing the Appellant to pay the compensation to the respondents 1 to 6.

11. Insofar as the quantum of compensation awarded by the Tribunal is concerned, it is an undisputed fact that the deceased kannaiyan died as a result of an accident caused by a jeep owned by the Appellant. It is also an undisputed fact that only due to the rash and negligent driving by the driver of the jeep owned by the Appellant, the accident had happened. No contra evidence has been produced before the Tribunal by the Appellant to disprove the claim of the respondents 1 to 6 that only due to the rash and negligent driving by the driver of the jeep owned by the Appellant, the accident had happened.

12. As per the claim petition, the deceased kannaiyan was working as a security at Velankanni Church, Nagapattinam and was earning a monthly income of Rs.4,500/- on the date of the accident. No contra evidence has been produced by the Appellant to disprove the age, avocation and monthly income of the deceased at the time of the accident. Since no documentary evidence has been produced by the respondents 1 to 6 before the Tribunal to prove that the deceased was earning a monthly income of Rs.4,500/- at the time of the accident, the Tribunal has correctly assessed the

monthly income of the deceased kannaiyan at the time of the accident on notional basis at Rs.3,000/- . Considering the age, avocation and the year of the accident, the Tribunal has applied the multiplier method in assessing the compensation payable to the respondents 1 to 6.

13. Considering the quantum of compensation awarded to the respondents 1 to 6 for the death of Kannaiyan under various heads, this Court is of the considered view that it is a just compensation.

14. In the light of the above observations, there is no merit in the instant appeal. Accordingly, the Appeal is dismissed without costs. Consequently, connected miscellaneous petition is closed.

15. It is brought to the notice of this Court that the amount awarded by the Tribunal has already been deposited by the Appellant. Therefore, the respondents 1, 5 & 6 are permitted to withdraw their respective shares by filing an appropriate application. Insofar as the minor respondents 2, 3 & 4 are concerned, their respective shares shall be deposited in any one of the Nationalised Banks till they attain majority and the 1st Appellant/mother of the minors is permitted to withdraw the interest accrued once in six months.

03.10.2018

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Index : Yes/No

Internet : Yes/No

Speaking /Non-speaking order

ABDUL QUDDHOSE, J.

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To

1.The Motor Accident Claims Tribunal,
(District Court), Nagapattinam

2.The Section Officer,
Vernacular Section,
Madras High Court.

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