

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2048 of 2010 and
M.P.No.1 of 2010 and
C.M.P.No.7631 of 2017

1.The District Collector,
Vellore District,
Sathuvachari,
Vellore-9.

2.The District Superintendent of Police,
Vellore District,
Sathuvachari,
Vellore-9.

3.Driver Raja

...Appellants/Respondents

Vs

1.Priya

2.Minor Preethi

3.Minor Raghul,

4.Rajeswari

...Respondents/Claimants

(minor respondents 2 & 3 are
represented by their mother and
next friend Priya, the 1st Respondent
herein)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988 against the Judgment and Decree dated
17.07.2009, passed by the Motor Accident Claims Tribunal,
(Principal District Judge's Court, Vellore) Vellore District,
Passed in M.C.O.P.No.211 of 2007.

For Appellants : Mr.S.Jaganathan,
Government Advocate.

For Respondents :Mr.M.Rajendiran for R1 to R4

J U D G M E N T

The instant appeal has been filed by the appellants
challenging the award dated 17.07.2009 passed by the Motor
Accident Claims Tribunal, (Principal District Judge's Court,

Vellore) in MCOP No.211 of 2007.

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

2. One Selvam died on 13.11.2006 as a result of an accident caused by a van bearing Registration No.TN23 G 0463 driven by the 3rd Appellant and owned by the Appellants 1 & 2. The dependants of the deceased Selvam who are the respondents 1 to 4 in the instant appeal, preferred a claim before the Motor Accident Claims Tribunal in MCOP No.211 of 2007 against the appellants seeking a compensation of Rs.20,00,000/-. The Motor Accident Claims Tribunal by its Award dated 17.07.2009 in MCOP No.211 of 2007 directed the appellants to pay the respondents 1 to 4 jointly and severally a sum of Rs.7,30,000/- together with interest at the rate of 7.5% per annum from the date of claim till date of the realization.

3. Aggrieved by the Award dated 17.07.2009 passed in MCOP No.211 of 2007, the instant appeal has been filed.

4. Heard Mr.S.Jaganathan, the learned Government Advocate appearing for the appellants and Mr.M.Rajendiran, the learned counsel appearing for the respondents.

5. The grounds raised for challenge in the instant appeal by the appellants are as follows:-

(a) The claim ought to have been dismissed for non-joinder of the owner and the driver of the lorry which came in the opposite direction which resulted in the van, in which the deceased was travelling, colliding with the tree.

(b) The Tribunal has erroneously fixed 50% of liability on the appellants and ought to have fixed the entire liability on the owner and driver of the lorry which came in the opposite direction. Only due to the rash and negligent driving by the driver of the lorry which was coming in the opposite direction, the accident had happened resulting in the death of Selvam.

(c) The Tribunal has also erroneously adopted 15 years multiplier, though the age of the deceased was not proved by the respondents.

6. Per contra, the learned counsel for the respondents would contend that the accident happened only due to the negligence of the driver of the van in which the deceased was travelling and there was no negligence on the part of the driver of the lorry which was coming in the opposite direction.

7. The learned counsel for the respondents contended that the van in which the deceased was travelling hit against a tree which resulted in the death of Selvam. The learned counsel for the respondents submitted that the deceased Selvam was a Police Constable and was travelling in a van owned by the Police

Department. The driver of the van is also a police driver. According to the learned counsel for the respondents, only due to the rash and negligent driving by the driver of the Police van, the accident had happened resulting in the death of Selvam.

8. This Court after having considered the materials available on record and after examining the impugned Award and after hearing the submissions of the respective counsels observes the following:-

(a) It is an undisputed fact that the deceased was travelling in a Police van driven by the third respondent and owned by the respondents 1 & 2 at the time of the accident.

(b) It is also an undisputed fact that the Police van hit against a tree, resulting in the death of Selvam who is also a Police Constable.

(c) The respondents have examined three witnesses on their side namely Priya (pw1), who is the wife of the deceased, Malar (pw2) an eye witness to the accident and Sundaresan (pw3) colleague of the deceased Selvam who gave evidence about the salary of the deceased. They have also filed 7 documents which were marked as exhibits P1 to P7. The documents included copy of FIR, copy of MVI report, copy of post mortem certificate, copy of charge sheet, death certificate, legal heirship certificate and salary certificate of the deceased. On the side of the appellants one witness was examined and one document was also marked as exhibit.

(d) The Tribunal, only based on the materials available, has given a clear finding that the driver of the Police van namely the third respondent was also partially responsible for the death of Selvam and therefore directed the appellants jointly and severally to pay the respondents 50% of the compensation amount.

(e) The Tribunal has rightly applied the multiplier method in assessing the compensation.

10. In the considered view of this Court, no ground has been made out for challenging the impugned Award and there is no merit in the instant appeal. Accordingly, the appeal is dismissed without costs. Consequently, connected Miscellaneous Petitions are closed.

11. The Appellants are directed to deposit the amount awarded by the Tribunal together with interest, after deducting the amount that has already been deposited, to the credit of M.C.O.P.No.211 of 2007 on the file of the Motor Accident Claims Tribunal, (Principal District Judge's Court, Vellore) Vellore District, within a period of four weeks from the date of receipt of a copy of this Order. On such deposit being made, the respondents 1 to 4/claimants are entitled to their respective shares as apportioned by the Tribunal. The 1st and 4th respondents are permitted to withdraw their respective shares

along with accrued interest lying to the credit of M.C.O.P.No.211 of 2007 on the file of the Motor Accident Claims Tribunal, (Principal District Judge's Court, Vellore) Vellore District by filing an appropriate application. The share of the minor claimants (respondents 2 & 3) shall be deposited in any of the Nationalised Bank till they attain majority and the 1st respondent/natural guardian is permitted to withdraw the interest accrued once in six months.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

mbi/nl

To

1. The Motor Accident Claims Tribunal,
Principal District Judge, Vellore
Vellore District.

+1 CC to Additional Govt. Pleader sr 62844.

+1 CC to Mr.M. Rajendran, Advocate sr 62875.

C.M.A.No.2048 of 2010 and
M.P.No.1 of 2010 and
C.M.P.No.7631 of 2017

KGK (CO)
SP (05/10/2018)

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