



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

C.M.A. (MD) No.630 of 2018

and

CMP (MD) .No.7377 of 2018

The Oriental Insurance Company Limited,
South Street,
Thanjavur.

... Appellant / 3rd respondent

Vs.

1. K.Thirugnanam

2. T.Vanitha

... R1 & R2/ Petitioner

3. The Owner of Saraswathi Bus,
bearing No.TN 49 8037,
53/1746, Rajaveethi,
Karanthai,
Thanjavur - 2

... R3 / R1

4.T.Kumar

... R4 / R2

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Award dated 31.03.2010, made in MCOP.No.449 of 1999, on the file of the Motor Accidents Claims Tribunal / Subordinate Judge, Thanjavur.

For Appellant : Mr. Aathimoolapandian

For R1 and R2 : Mr.M. Karunanithi

RR3,4 Exparte before the Tribunal below

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Award dated 31.03.2010, made in MCOP.No.449 of 1999, on the file of the Motor Accidents Claims Tribunal / Subordinate Judge, Thanjavur.

2. The present appeal is filed by the appellant / Insurance Company challenging the Award of the Tribunal granting compensation to the respondents 1 and 2.

3. The respondents 1 and 2, who are the claimants, have filed the said claim petition in MCOP.No.449 of 1999, on the file of the Motor Accidents Claims Tribunal, Thanjavur, claiming a sum of Rs.4,00,000/- as compensation for the death of their son viz., Raghuraman, who was travelled as a pillion in Hero Honda vehicle, in the accident that took place on 05.03.1996.

4. The respondents 3 and 4 remained ex parte before the Tribunal.



5. I have heard the learned counsel appearing for the appellant and the respondents 1 and 2.

6. From the materials on record, it is seen that the accident occurred when the deceased had travelled as a pillion rider in motorcycle. The driver of the bus belonging to the third respondent, driven the bus in a rash and negligent manner and dashed against the motorcycle and in the accident the deceased died. The Tribunal considering the evidence let in by the respondents 1 and 2, held that the accident occurred only due to rash and negligent driving by the driver of the bus. At the time of accident, the bus was insured with the appellant. The Tribunal rejected the contention of the appellant that there was violation of permit and policy condition and the appellant is not liable to pay any compensation, as the appellant has not let in any evidence to substantiate their case.

7. The Tribunal considering the discharge summary and evidence of Doctors, who are examined as PW.3 and PW.4, held that the deceased died only due to the injuries sustained by him in the accident. It is pertinent to note that the accident occurred on 05.03.1996 and he was admitted in the hospital and was discharged on 08.03.1996 at 9.20 p.m., in order to give better treatment at Madras and the deceased died on the way to hospital on 08.03.1996 at 11.23 p.m. The Tribunal considering the age of the deceased, nature of the injuries and medical treatment given to him, awarded a sum of Rs.5,18,000/- as compensation, which is just and proper and hence, there is no reason to interfere with the said Award passed by the Tribunal.

8. In the result, this Civil Miscellaneous Appeal is dismissed by confirming the Award dated 31.03.2010, made in MCOP.No.449 of 1999, on the file of the Motor Accidents Claims Tribunal /Subordinate Judge, Thanjavur. No costs. Consequently, connected Miscellaneous Petition is closed.

9. The appellant / Insurance Company is directed to deposit the amount awarded by the Tribunal together with interest, after deducting the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the respondents 1 and 2 are permitted to withdraw their shares as per the apportionment fixed by the Tribunal, on filing necessary application before the Tribunal.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS-I)



To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal, Thanjavur.
2. The Record Keeper, (2 copies)
VR Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.Karunanithi, Advocate Sr.No.87778

TRP

VB/SKN/SAR1/26.12.2018/3P/5C

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