

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1380 of 2003

The Commissioner of Police,
Salem City, Salem.

... Appellant/2nd Respondent

Vs

1.Kanniyammal

2.Minor Meera

3.Minor Sangeetha

4.Minor Parthiban

(Minor respondents 2, 3 and 4 rep.
by their next friend and mother,
the first respondent herein).

5.Parvathi

...1st to 5 Respondents/Petitioners

6.A.Ravi

...6th Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 12.07.2002 made in MCOP No.108 of
2002 on the file of the Motor Accidents Claims Tribunal
(Additional Special Court), Dharmapuri District at Krishnagiri.

For Appellant : Mr.A.Narendran,
Government Advocate
(Civil Side)

For Respondents: Mr.M.Selvam for R1 to R5

JUDGMENT

The case in brief, is as follows:

On 03.04.2001, the deceased Panneerselvam was riding his
two-wheeler Bajaj M-80 from North to South direction in the
Dharmapuri - Salem NH Road. When he reached near Government
Industrial Estate at about 08.45 p.m., the Police Jeep bearing
Reg.No.TN-27-G-1218 belonging to the appellant herein, came in a
rash and negligent manner at high speed from South to North
direction in the wrong side and dashed against the deceased. Due
to the said impact, the deceased sustained multiple fatal
injuries and died soon after admitted in the Government
Headquarters Hospital, Dharmapuri. The wife, son, daughters and
mother of the deceased filed a claim petition before the
Tribunal claiming a sum of Rs.10,00,000/- as compensation. On

consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.7,09,000/- with interest at the rate of 9% per annum from the date of petition.

2.Challenging the same, the appellant has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant has submitted that the deceased alone was responsible for the accident, since he crossed the road in the middle and dashed against the appellant's jeep which was almost stationed on the left extreme side of the road. In any event, the Tribunal ought to have held that there was contributory negligence on the part of the deceased. It is also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

4.The learned counsel for the respondents 1 to 5 / claimants has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation. He also submitted that the Tribunal has rightly fixed the liability on the part of the appellant, considering the materials and evidence available on record. Therefore, according to the learned counsel for the claimants, the judgment of the Tribunal does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant and also the learned counsel for the claimants and perused the materials available on record carefully and meticulously.

6.P.W.1 is the wife of the deceased. She deposed before the Tribunal that on coming to know that her husband died in the accident that occurred near the Government Industrial Estate in the Dharmapuri - Salem Main Road, she went to the Dharmapuri Government Hospital. She also filed the registered First Information Report before the Adhiyamankottai Police Station in Crime No.388 of 2001 against the jeep driver under Section 304-A IPC, which has been marked as Ex.P1. P.W.2-Arumugam is the one who gave complaint, based on which the First Information Report has been registered. He deposed before the Tribunal that the deceased was a Sub-Contractor in crushing stones and that he was also working along the deceased as a Sub-Contractor. He also deposed that on the date of accident, when the deceased was proceeding in the Dharmapuri - Salem NH Road, he and his friend by name Krishnan were following the deceased in a TVS-50 and at that time, the Police Jeep in question overtook the on-coming bus and dashed against the two-wheeler which the deceased was riding. It was put forth on the side of the appellant before the Tribunal that the accident had occurred only due to the rash and negligent driving of the two-wheeler by the deceased. It was also put forth on behalf of the appellant before the Tribunal

that in the statement given by one Arumugam and Krishnan under Section 161 of Cr.PC, it is stated that the two-wheeler driven by the deceased dashed against the stationed jeep. Only thereafter, the eye-witness, who is stated to have seen the accident, came to the place of accident. Considering the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the jeep belonging to the appellant. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

7. With regard to the quantum of compensation, the Tribunal has awarded a sum of Rs.6,12,000/- towards loss of income. The said sum has been arrived at taking the monthly income of the deceased at Rs.4,500/-, deducting one-third of the amount towards personal expenses of the deceased, arriving at the annual contribution of the deceased to the family at Rs.36,000/- and adopting the multiplier of 17. The Tribunal has also awarded a sum of Rs.50,000/- towards loss of consortium, Rs.40,000/- towards loss of love and affection, Rs.2,000/- towards funeral expenses and Rs.5,000/- towards loss of estate. Thus, the Tribunal awarded a total compensation of Rs.7,09,000/-. The Tribunal has rightly considered the materials and evidence, correctly assessed the income of the deceased, adopted the correct multiplier and arrived at Rs.6,12,000/- towards loss of income. The amounts awarded by the Tribunal towards other heads are also very reasonable and hence the same are confirmed.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The minor respondents 2 to 4 would have attained majority by now. Hence, on such deposit being made, the respondents 1 to 5 / claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

KM

To

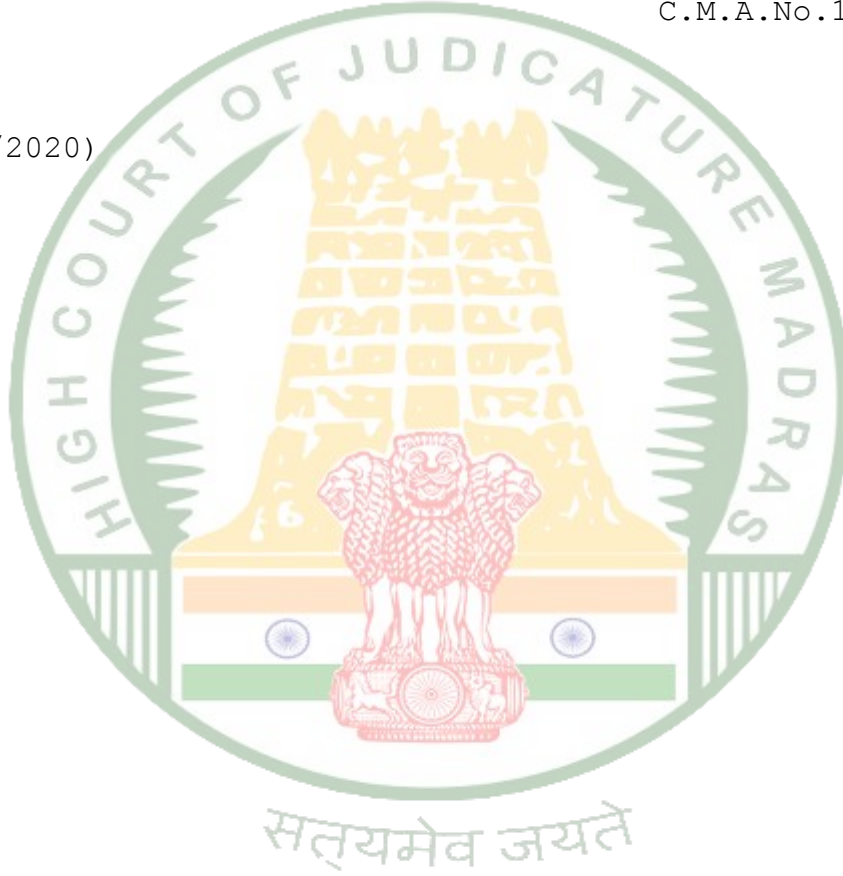
1.The Motor Accidents Claims Tribunal
(Additional Special Court), Dharmapuri District at
Krishnagiri.

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

+lcc to Mr.Special Government Pleader, Advocate SR.No.70298

C.M.A.No.1380 of 2003

SJ(CO)
GMY(10/01/2020)



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