

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 01.07.2019
CORAM:
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.1270 of 2005

1. K.Karunanidhi
2. The United India Insurance Co.Ltd.,
Vellore,
Rep.by Divisional Manager,
Katpadi Road,
Vellore-4. ... Appellants/ Respondents

...vs...

1. T.Murugesan
2. Harini (minor)
3. Hasini (minor)
(Minor Respondents 2 and 3
are rep by their next friend/guardian
Paternal Uncle the 1st respondent
T.Murugesan) ... Respondents/ Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 12.03.2002 made in MCOP.No.404 of 2000 on the file of the Motor Accidents Claims Tribunal (Principal District Judge) Tiruvannamalai.

For Appellants : Ms.K.Akilandeswari
For Respondents: Mr.B.Jawahar for R1 to R3.

सत्यमेव जयते
J U D G M E N T

As against the award passed by the Claims Tribunal for a sum of Rs.2,22,000/-, this appeal is preferred by the appellants herein who are the owner and insurer of the vehicle in question. One Velusamy, aged 34, while riding in a motor cycle near Alampoondi, the first appellant's lorry bearing Registration Number TN-25-A-6849 came in a rash and negligent manner and dashed against the motor cycle. Due to the said accident, the rider of the motorcycle viz., Velusamy got multiple head injuries and was taken to JIPMER Hospital, wherein he

succumbed to injuries on 03.01.2001, i.e., after the period of 15 days. The legal representatives of the said Velusamy have filed the claim petition. The Tribunal, on the basis of documents filed and on the basis of evidence, has awarded the said sum as stated supra.

2. Heard both sides.

3. It is the case of the appellants that the Tribunal erred in holding that the driver of the lorry bearing Regn.No.TN-25-A-6849 was at fault and he was responsible for the accident; in any event, the award passed under each and every heads is very high and it needed considerable reduction.

4. The learned counsel appearing for the respondents/ claimants would submit that the Tribunal has considered all the aspects into consideration and has rendered its findings, based on evidence and hence, no interference is called for and the award of the Tribunal has to be confirmed as such.

5. This Court has considered the said submissions made by both parties and perused the materials available on record.

6. At the outset, it has to be pointed out that the first appellant remained exparte before the Tribunal and only the second appellant denied the accident. When the second appellant herein denied the accident, then it is the duty of them to prove on whose negligence the accident had happened. But the respondents neither adduced any evidence nor filed any documents to prove their case.

7. However, in order to prove the case, the claimants have examined P.Ws.1 to 4 in which P.W.4 was an eye-witness and marked Exs.P.1 to P.28. Further, the evidence of eye-witness P.W.4 corroborates with the documents produced by the claimants. The driver was convicted by the competent Civil Court vide Ex.P.4. Hence, viewing from any angle, it is established that the lorry driver was rash and negligent in his driving and the accident would have averted, if he chooses to drive the lorry cautiously.

8. In such view of the matter, this Court finds absolutely no reason to interfere with the findings

rendered by the Tribunal, which are based on materials available on records. Hence the same are confirmed.

9. So far as quantum of compensation awarded by the Tribunal is concerned, it has taken the annual income of the deceased at Rs.15,000/-, adopted multiplier of 17, deducted 1/3rd towards the personal expenses and has arrived at the loss of income at Rs.1,70,000/-. Apart from the above, the Tribunal has granted Rs.2,000/- and Rs.50,000/- towards Funeral expenses and loss of consortium respectively. The heads under which the compensation has been awarded by the Tribunal are on conventional methodologies and on settled principles of law. Further, though it is claimed by the claimants that the deceased was earning Rs.7,500/- per month, the Tribunal, in the absence of any documentary proof thereof, has taken the annual income at Rs.15,000/-. This Court is of the view that the quantum arrived at by the Tribunal has to be confirmed as such, since the same are based on settled principles of law and II Schedule of the M.V.Act.

9.1. In the result, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal stands dismissed. No Costs.

10. The Insurance Company / second appellant herein is directed to deposit the compensation amount, as awarded by the Claims Tribunal, along with interests and costs, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. The ratio of apportionment shall be as ordered by the Claims Tribunal. The minor claimants should have attained majority as on now. Therefore, on such petition being taken out to declare the minor claimants as majors, the claims Tribunal shall pay the compensation to the RTGS Accounts of the claimants and if not, that share amount shall be deposited in any one of the Nationalised Banks and interest accrued thereon shall be withdrawn by the guardian of the minor claimants. In respect of another claimant also, the same procedure shall be followed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

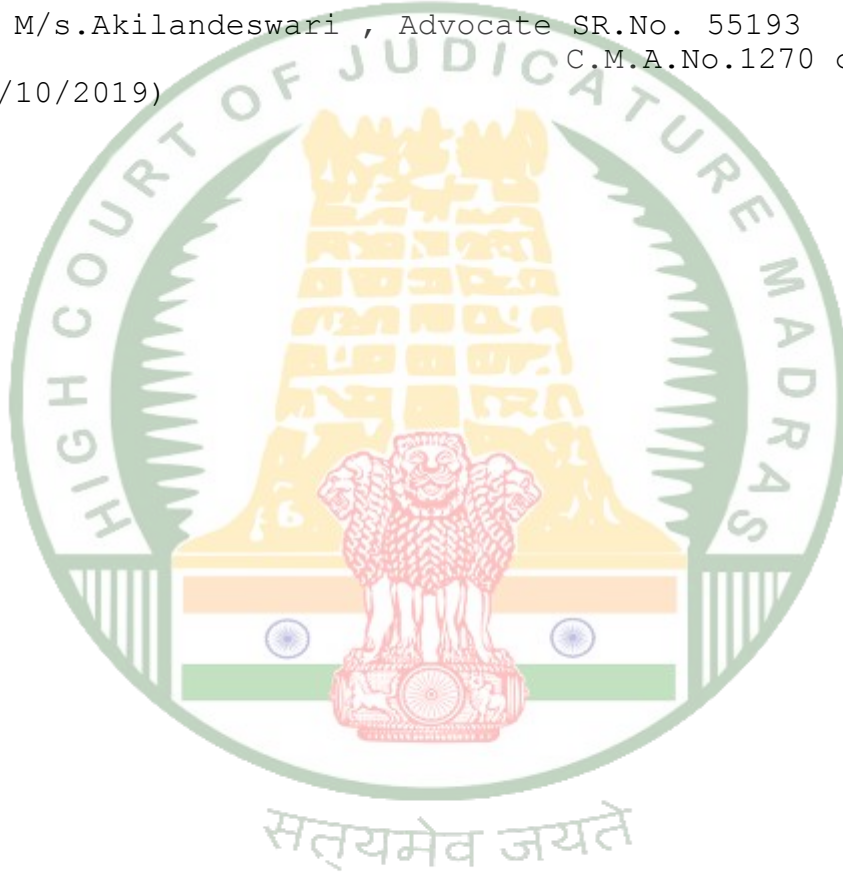
srk/vv

To

1.The Motor Accidents Claims Tribunal (Principal District Judge) Tiruvannamalai

2.The Section Officer,
V.R.Section, Madras High Court, Chennai 104

+1cc to M/s.Akilandeswari , Advocate SR.No. 55193
C.M.A.No.1270 of 2005
A.SK(31/10/2019)



WEB COPY