

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.1654 of 2006 and
CMP.No.7311 of 2006

1. Thilagaraj

2. The Oriental Insurance Co. Ltd.
Coimbatore.

...Appellants / 2nd & 3rd Respondents

Vs

1. Shyamala

2. Sivakumar

3. Uma Maheswari ... 1 to 3 respondents/petitioners 2 to 4

4. Panapandy ... 4th Respondent / 1st respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 20.02.2004 passed in M.C.O.P.No.757 of 1998 on the file of the Motor Accident Claims Tribunal, Additional District Judge cum Fast Tract Court No.1, Coimbatore.

For Appellants : Ms. D. Geetha

For Respondents: No appearance
1, 2, 3 and 4

J U D G M E N T

The case in brief, is as follows:

On 12.05.1998 at about 11.00 a.m., one Baskaran was proceeding in the Amman Kulam Road, Coimbatore, by walk, from South to North direction. When he reached near Thangavel Ashari Patarai, the TVS-50 XL moped bearing Reg.No.TN-37-A-6959, belonging to the first appellant and insured with the second appellant Insurance Company came in a rash and negligent manner and dashed against the said TVS-50 XL moped. Due to the impact,

the said Baskaran fell down and sustained severe fractures on his left hand and multiple injuries. Originally, the claim petition was filed by the said Baskaran, claiming a sum of Rs.2,00,000/- as compensation. Subsequently, he died and hence his legal representatives have been brought on record before the Tribunal.

2.Considering the materials and evidence available on record, the Tribunal has fastened the negligence on the rider of the two wheeler and directed the driver and owner of the TVS 50 XL Moped and also the Insurance Company to pay the compensation, jointly and severally, as against which, the rider of the two-wheeler and the Insurance Company have filed this appeal.

3.Despite notice served on the respondents 1, 2, 3, and 5 and their names printed in the cause list, there is no representation on their behalf.

4.The learned counsel for the appellant, at the outset, submitted that the Tribunal ought to have seen the First Information Report, Sketch and criminal records, but the Tribunal has relied only upon the Motor Vehicle Inspector's report and came to the conclusion that the accident had occurred only due to the rash and negligent riding of the rider of the TVS 50 XL Moped. He further submitted that there are inconsistencies between the Motor Vehicle Inspector's Report and the criminal records and hence the findings rendered by the Tribunal in this connection, have to be set aside. He further submitted that in any event, the quantum arrived at by the Tribunal is on the higher side.

5.Heard the learned counsel for the appellant and perused the materials and evidence available on record.

6.A perusal of the award passed by the Tribunal would go to show that based on the examination and cross-examination of P.W.1-wife of the deceased and R.Ws.1 to 3 and the Ex.P.4, Motor Vehicle Inspection Report, wherein the Motor Vehicle Inspector has stated that it was only because of the TVS 50 two-wheeler in question came in a rash and negligent manner the accident had happened, the Tribunal has fixed the negligence on the rider of the two wheeler, which was insured with the appellant herein. In this connection, it was put forth on behalf of the Insurance Company before the Tribunal that they are not liable to pay compensation to the claimants, since only the two-wheeler

bearing Reg.No.TN-37-Q-6959 has been insured with them and not the two-wheeler bearing Reg.No.TN-37-A-6959 which is involved in the present case. In this regard, the Tribunal has analysed the materials and evidence in detail and held that it is apparently clear that instead of writing the word 'Q', it has been written as 'A' in the documents, but the fact remains that the registration number of the two-wheeler in question is TN-37-Q-6959 and the same has been insured with the appellant Insurance Company. The said finding rendered by the Tribunal on negligence is based on concrete documents and evidence available on record and hence the same does not require any interference by this Court.

7. As far as the quantum of compensation is concerned, the Tribunal based on the settled principles of law and the second schedule of the Motor Vehicles Act has arrived at the compensation under the following heads:

S.No	Head	Compensation (in.Rs.)
1.	Medical expenses	30,000.00
2.	Transportation expenses	5,000.00
3.	Extra nourishment	10,000.00
4.	Damage to Clothes/personal materials	1,000.00
5.	Loss of love and affection	20,000.00
Total		66,000.00

8.This Court is of the view that the quantum so arrived at by the Tribunal is based on evidence and materials adduced by the respondents/claimants and hence, interference is uncalled for. Further, the accident was of the year 1998, the judgment of the Tribunal was of the year 2004, the appeal was filed during 2006 and the appeal is being disposed of only now, i.e., 2019. Hence, considering the paucity of time, escalation in the value of prices and reduction in the value of money, the award passed in the year 2004 cannot be said to be on the higher side. On that score also, the appeal deserves to be dismissed.

9.In such view of the matter, the findings on negligence as well as quantum by the Tribunal are confirmed as such.

10.In the result, the Civil Miscellaneous appeal is dismissed. No costs. Consequently, the connected MP is closed. The appellants herein are directed to deposit the compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the respondents 1 to 3 / claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, on making proper application.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. Motor Accident Claims Tribunal,
Additional District Judge cum Fast Tract Court No.1,
Coimbatore.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+lcc to M/s.D.Geetha, Advocate Sr.62955

C.M.A.No.1654 of 2006
& CMP.No.7311 of 2006

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