

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3204 of 2005

V.Varadharajalu

.... Appellant/Respondents

Vs.

1.Picha Pillai
2.Subramaniam
3.Duraisamy

.... Respondents/Claimants 1 to 3

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 18.06.2004 made in MCOP No.451 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-III, Virudhachalam.

For Appellant : Mr.V.Ayyadurai Senior Counsel,
for Mr.K.Kumaresh Babu

For R-1 : Died

For R-2 & R-3 : No Appearance

J U D G M E N T

The appellant, who is the owner of the vehicle involved in the accident, has preferred this appeal, challenging the compensation of Rs.2,74,000/- awarded by the Tribunal.

2.The case in brief, is as follows:-

On 20.12.1998 at about 6.15 p.m., one Chinnasamy was riding a bi-cycle at Avatti cross Road and at that time, the appellant's vehicle (Tractor) bearing registration No.TAF5451 with Trailor bearing Registration No.TN-31/V6165, dashed against the said person. Due to the said accident, he died on the spot. Stating that the accident had happened only due to the rash and negligent driving of the driver of the appellant herein, the legal heirs of the deceased filed a claim petition claiming compensation of Rs.5,00,000/- before the Tribunal.

3.The Tribunal, after examining the oral and documentary evidence adduced by the parties, awarded a sum of Rs.2,74,000/- as compensation to the legal representatives of the deceased/Chinnasamy. Aggrieved over the same, the present appeal came to be filed.

4.The learned counsel for the appellant submitted that the Tribunal, by relying upon the evidence of PW.2/eye-witness, has held that the accident had occurred due to the rash and negligent driving of the driver of the appellant, which is misconceived and therefore, it is liable to be set-aside. He further submitted that the income of the deceased arrived at Rs.3,000/- per month is on the higher side; the Tribunal also erred in applying the multiplier of 11 and considering the age of the deceased as 55 at the time of accident, the proper multiplier to be adopted would be 9 and hence, the quantum so awarded needs reduction.

5. This Court has considered the said submissions made by the learned counsel for appellant and perused the materials available on record. Despite the service of notice and the name of the respondents 2 and 3 having been printed in the cause list, there is no representation on their behalf. However, considering the paucity of time, this Court is inclined to proceed with this appeal, on merits.

6. PW.2, who is the eye-witness to the accident, has spoken about the manner of accident. His version corroborates with the First Information Report/Ex.P1. Whereas, the driver of the tractor, who was examined as RW.1, has deposed about the manner of accident contra to the eye-witness(PW.2) account. But, the Tribunal has drawn adverse inference against RW.1 and observed that if really RW.1 was not at fault, he would have gone to the police station and lodged a complaint. Further, there was no coverage of insurance policy in respect of the vehicle in question. That apart, Ex.P6-Registration certificate of the vehicle and Ex.P7-driving licence support the case of the claimants/respondents 1 to 3 rather than the owner of the vehicle/appellant herein. Thus, the Tribunal has analysed all the materials in detail and has rendered its findings that the accident had occurred due to the rash and negligent driving of the driver of the tractor, which in the opinion of this Court, are perfectly valid and the same are confirmed as such.

7. As far as the quantum of compensation arrived at by the Tribunal is concerned, it has to be pointed out that the compensation has been assessed as per the Motor Vehicles Act. The Tribunal has taken the multiplier of 11; in the absence of any documentary evidence, fixed the monthly income at Rs.3,000/- and arrived at the annual income at Rs.36,000/-; and deducting

1/3rd towards personal and living expenses, calculated the loss of income at Rs.2,64,000/-. Further, it is a common knowledge that when there are the dependents to be taken care, the logical inference is that the deceased would be earning at least Rs.3,000/-per month. That apart, towards the loss of consortium a sum of Rs.10,000/- was awarded. The quantum so arrived at by the Tribunal is based on the settled principles of law and conventional methodologies being adopting by the Tribunal time and again, which this Court is not inclined to interfere.

8. At this juncture, the learned counsel for the appellant/ owner of the vehicle submitted that the appellant cannot be saddled with the interest at the rate of 9% per annum from the date of petition till the date of deposit.

9. This Court finds some force in the said contention. Considering the fact that the accident took place on 20.12.1998; the petition was disposed of by the Tribunal on 18.06.2004; the appellant has filed this appeal during the year 2005; and it is being disposed of only now i.e., 2019, he cannot be saddled with interest at the rate of 9% that too, no fault on the part of the appellant. Hence, the interest payable by the appellant with regard to compensation is hereby reduced from 9% to 7.5% per annum from the date of petition till the date of deposit.

10. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. The Appellant is directed to deposit the entire compensation amount, along with interest 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. On such deposit being made, the Tribunal is directed to transfer the award amount to the Savings Bank Account of the claimants / respondents herein, within one week thereafter, through RTGS as per the ratio of the apportionment made by the claims Tribunal. Consequently, connected CMP is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CO)

//True Copy//

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Sub Assistant Registrar

kv

To

1. The Motor Accident Claims Tribunal,
Additional District Judge,
Fast Track Court-III, Virudhachalam.

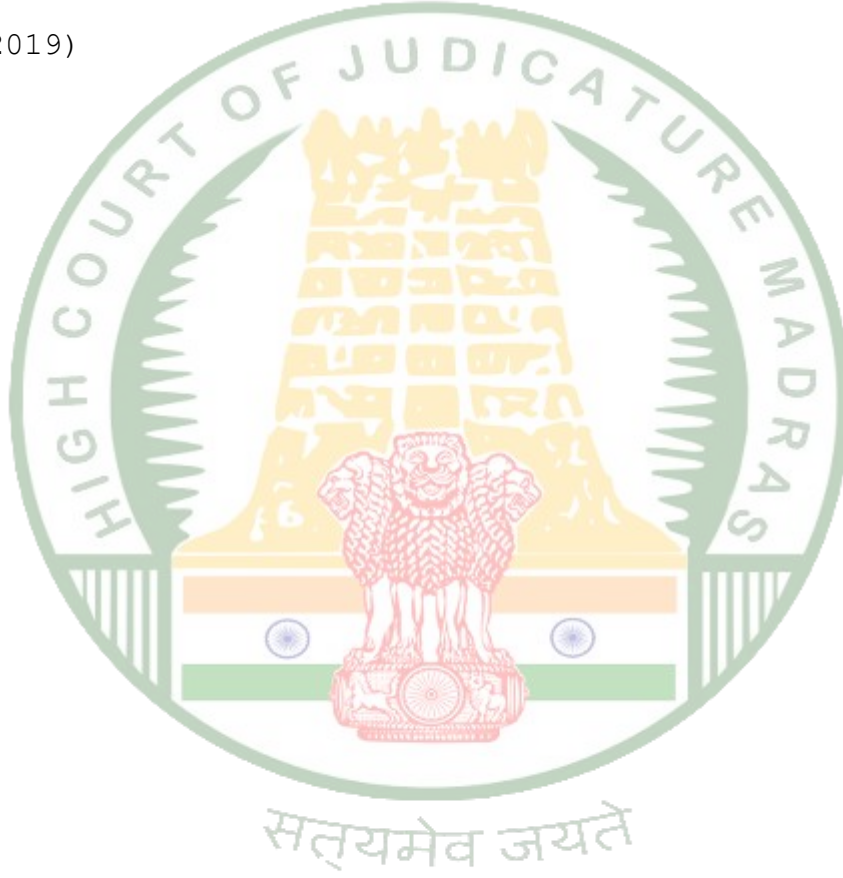
Copy TO

The Section Officer,
V.R. Section, High Court, Madras.

+2cc to Mr.V.B.Perumal Raj, Advocate, S.R.No. 59939

C.M.A.No.3204 of 2005 and
C.M.P.No.16498 of 2005

RV(CO)
GN(16/10/2019)



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