

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2019

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

C.M.A.No.3271 of 2006
and
C.M.P.No.10332 of 2006

1.R.Subramani
2.G.Anjala

... Appellants/ Respondents3&4

Vs.

1.Haleel Rahman
2.United India Insurance Company Limited,
Pondicherry - 605 001.
3.C.Aburoobam
4.R.Srinivasan

... Respondents/
Respondents1&2/Claimants1&2

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 31.01.2005 made in M.C.O.P.No.663 of 2002 on the file of the Motor Accident Claims Tribunal (Additional Special Court), Krishnagiri.

For Appellants : Mr.K.Sukumaran

For R2 : Mr.J.Jagadev

For R3 : Mr.P.Mani

R4 : Died

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants, assailing the award passed by the 'Motor Accident Claims Tribunal (Additional Special Court), Krishnagiri' (hereinafter 'the Tribunal' for brevity) on 31.01.2005 in M.C.O.P.No.663 of 2002.

2.The brief facts of the case are as under :

On a fateful day, i.e. on 30.03.2002, at about 07.15 a.m., when the deceased Saravanan and his friend Sathish were going in the motorcycle (Bajaj-M80), bearing registration No.TN-29-C-9641, from Diesel Bunk at Mathur to Nagampatti on the Krishnagiri-Uthangarai National Highway, the driver of the lorry, owned by the 1st respondent, bearing Registration No.TN-28-A-0739, drove the vehicle in a rash and negligent manner and hit the deceased. Due to the said impact, the deceased sustained fatal injuries and died on the spot. The 3rd and 4th respondents, being the parents of the deceased filed a claim petition in M.C.O.P.No.663 of 2002 before the Tribunal, claiming a total compensation of Rs.9,00,000/- (Rupees nine lakhs only). Pending the same, the appellants, who are admittedly the foster parents of the deceased, filed an application before the Tribunal to implead them as party respondents in the proceedings and the same was allowed by the Tribunal. Thereafter, on analysis of the materials and evidence on record, the Tribunal awarded a total compensation of Rs.2,10,000/- (Rupees two lakhs and ten thousand only) with interest @ 9% p.a. from the date of claim petition, payable to the 3rd and 4th respondents and dismissed the claim petition insofar as the appellants are concerned.

3.Challenging the award passed by the Tribunal, the appellants are before this Court by way of this appeal.

4.Learned counsel for the appellants has submitted that the appellants have brought up the deceased Saravanan as their foster son, without receiving any maintenance from the 3rd and 4th respondents, and therefore, the appellants are the legal heirs and dependents of the deceased, however, the Tribunal has erred in holding that the appellants are not the legal representatives of the deceased and not entitled for compensation. Hence, he submitted that the award passed by the Tribunal has to be interfered with.

5.Per contra, learned counsel appearing for the 3rd respondent refuted the contentions so raised on the side of the appellants and prayed for dismissal of this appeal.

6.Heard the learned counsel on either side and perused the materials available on record.

7.On a careful perusal of the award passed by the Tribunal, it is seen that the appellants have claimed themselves to be the legal representatives of the deceased on the ground that they have brought up the deceased, from his childhood, who was left by the 3rd and 4th respondents, who are admittedly the parents of the deceased. It is also seen that the appellants, had relied upon some judgments to ascertain the legalheirship with regard to the deceased, and had produced certain documents as exhibits before the Tribunal in that regard.

8.The Tribunal, on considering all the evidence and materials on record, has concluded that the appellants have failed to produce any documentary evidence to show that, foster parents are eligible for receiving compensation towards the death of their foster child, while there are preferential heirs to the deceased, notwithstanding the fact that they have looked after the deceased.

9.In the absence of any such documentary evidence to show their legal heirship, in the opinion of this Court, the Tribunal is justified in dismissing the claim petition insofar as the appellants are concerned. This Court finds no reasonable grounds to interfere with the award passed by the Tribunal, awarding the compensation payable to the parents of the deceased, viz. the 3rd and 4th respondents.

10.In the result, this Civil Miscellaneous Appeal is dismissed, confirming the judgment and decree passed by the Tribunal on 31.01.2005 in M.C.O.P.No.663 of 2002. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AD I MDU)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
Additional Special Judge,
Krishnagiri.

2.The Section Officer, सतयमेव जयते
VR Section, High Court of Madras.

+1cc to Mr.K.Sukumaran, Advocate SR.No. 60017

+1cc to Mr.M.B.Gopalan , Advocate SR.No. 59291

C.M.A.No.3271 of 2006 and
C.M.P.No.10332 of 2006

A.SK(08/09/2020)